

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

11:06 a.m.
Tuesday,
March 27, 2001

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chair
JAMES DAROSS, Vice-Chair
C. KENT CONINE
MARGIE BINGHAM
MARSHA WILLIAMS
DONALD BETHEL
ROBERT BREWER
FLORITA BELL GRIFFIN
LYDIA SAENZ

STAFF PRESENT:

DAISY STINER, Executive Director

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EXECUTIVE SESSION 146

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ADJOURN 148

P R O C E E D I N G S

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2 MR. JONES: At this time I will call to order
3 the meeting of the board of the Texas Department of
4 Housing and Community Affairs for March 27, 2001. The
5 first order of business will be the roll call.

6 Mr. James Daross, vice-chair.

7 MR. DAROSS: Present.

8 MR. JONES: Mr. Donald R. Bethel.

9 MR. BETHEL: Here.

10 MR. JONES: Ms. Margie Bingham.

11 MS. BINGHAM: Here.

12 MR. JONES: Mr. Brewer.

13 MR. BREWER: Here.

14 MR. JONES: Mr. Conine.

15 MR. CONINE: Here.

16 MR. JONES: Dr. Bell Griffin.

17 DR. GRIFFIN: Here.

18 MR. JONES: Ms. Saenz.

19 MS. SAENZ: Here.

20 MR. JONES: And Ms. Williams.

21 MS. WILLIAMS: Here.

22 MR. JONES: There are nine members present and
23 none absent, and I determine that there is a quorum.

24 The next order of business on the agenda is
25 public comment, and we have certain witness affirmation

1 forms that have been signed by people that would like to
2 speak. The first one is Mr. John Barineau.

3 MR. BARINEAU: Thank you, members of the board
4 and staff of TDHCA. I didn't know exactly what sequence
5 you were going to follow in your agenda here this morning,
6 but I'm only here to discuss one of the items I believe
7 I'm aware of, and that is the tax-credit determination
8 decision that you all have with regard to some pending
9 bond lottery -- tax exempt bond lottery projects. Am I
10 correct that that's one of the items on the agenda?

11 I'm here to comment. I'm a developer. John
12 Barineau is my name again, and I'm a developer of
13 affordable housing. We've been at it about 20 years. We
14 operate in four states, including tax-credit projects in
15 four different states under four different jurisdictions,
16 and I'd like to say at the outset that I think the TDHCA,
17 although we developers sometimes feel oppressed by the
18 difficulty and degree and intensity of the application
19 process, I will have to admit intellectually that the
20 thoroughness, the comprehensiveness, and the detail that
21 TDHCA has for its 9-percent competitive tax-credit
22 applications is on a scale of one to ten close to a ten
23 compared to other states.

24 The staff's procedure for crossing the t's and
25 dotting the i's in making decisions on which projects

1 survive the very competitive review process and which ones
2 are awarded tax credit I think is very commendable, and
3 the result is that you have an awful lot of information to
4 consider when making a decision of who gets tax credits
5 and who doesn't.

6 Now, by contrast, the way it's worked out the
7 last couple of years, the procedure of the bond lottery
8 projects where those projects are in effect sort of
9 randomly drawn and put into the mix without the in-
10 depth -- without procedures being in place for the in-
11 depth pre-screening that applies to all other tax-credit
12 projects; that is, the competing tax-credit projects of
13 the 9-percent credit.

14 And it may not have been predictable how this
15 would work out, but the fact that one consideration being
16 the objective to avoid over concentration and to strive
17 for dispersion of quality low income housing being one of
18 the golden rules of the 9-percent competing tax-credit
19 application only comes into play at the end of the game
20 with respect to bond lottery projects.

21 And I will admit -- and I should get this out
22 of the way ahead of time -- I am a developer in Houston.
23 We have a 9-percent credit project that we went in two
24 years in a row applications. We lost the first time. We
25 finally got through, got an allocation in 1998, completed

1 construction of Reed Park Townhomes. There was a '98
2 allocation. Just completed construction in the year 2000,
3 not even a year ago, 192 units of a mixed income property
4 with 60-percent AMI set aside, 50-percent AMI set aside in
5 market, all designed to meet the staff's and the agency's
6 criteria to be a successful, well-conceived project, and
7 here we are potentially with a project -- one of the bond
8 lottery projects immediately across the street.

9 We're 192 units. One of these projects across
10 the street, Reed Road South, as I understand from the
11 list, would be over 240 some-odd units. In addition,
12 there are two other projects that are in consideration
13 from the bond lottery that are within a mile or two of
14 this same location.

15 I think the department should really think
16 carefully about that, because one of the things that's
17 occurred is with the bond lottery projects when they went
18 to the Tier One concept to allow applicants to target
19 their project to charge rents only at 50 percent of area
20 median income level, that might have been intended for
21 good reason to serve a lower income population and
22 therefore be an incentive for that to occur by giving them
23 a smaller number of lottery competition by putting them in
24 a separate pot, so to speak.

25 On the other hand, the next step of also

1 requiring those projects to rent only to 50 percent area
2 median income people did not occur; whereas in fact they
3 can rent to people who make as high as 60 percent of area
4 median income, and whether that slipped through the
5 legislature through the lack of review or whether that was
6 a conscious decision, I can't really say.

7 On the other hand, the affect of it would be in
8 considering your determinations today that nearby projects
9 that have to rent to the income classes that their rent
10 levels and their underwriting targeted when they were
11 approved are put at potentially -- not to mention the
12 number of units that are brought on the market as a
13 possibility of over consideration. But those new units
14 being brought on the market will have an opportunity to
15 charge lower rents, 50 percent rents to 60 percent of area
16 median income people, and I will submit I don't think that
17 was the intention of the program or the purpose served.

18 So it's not just a matter of what the
19 statistics show is what the population is in some of these
20 projects located one to the other. I think it's very
21 important to realize that a bond project charging 50-
22 percent rents located very near another project who is
23 charging -- has to charge the income eligible rents has
24 the potential -- very real potential of cannibalizing the
25 60 percent of area median income tax-credit tenants on the

1 nearby project, and it's most likely that would occur on
2 those that are immediately across the street or around the
3 corner.

4 And I would respectfully request that you all
5 think long and hard about providing an over concentration.

6 Let the staff make the judgment about what in their
7 judgment and analysis would be a proper concentration and
8 proper dispersion, and it would perhaps be a tough call
9 but I would urge you to consider that, because housing --

10 MS. BINGHAM: Mr. Barineau, could you get to
11 the point? I think the bottom line is that you have a 9-
12 percent tax credit that's 100 percent occupied?

13 MR. BARINEAU: Not quite. No, ma'am.

14 MS. BINGHAM: What's the percent?

15 MR. BARINEAU: We're at 96, 97.

16 MS. BINGHAM: About 97 percent occupied.

17 Everything is occupied except your disabled units. Right?

18 MR. BARINEAU: That's about right.

19 MS. BINGHAM: And you have a 4-percent bond
20 lottery project not down the street, not around the
21 corner, but directly across the street from you.

22 MR. BARINEAU: Yes, ma'am.

23 MS. BINGHAM: It is a project that's proposed
24 by Trammell Crow that's right across the street from you.

25 MR. BARINEAU: That's correct.

1 MS. BINGHAM: Okay. I don't think it's in this
2 recommendation but if you could sum that up -- is that not
3 the bottom line?

4 MR. BARINEAU: That's one of the bottom lines.
5 The broader bottom line is your -- is to consider
6 changing procedure and maybe even lobbying the legislature
7 to get this 50-percent and 60-percent dichotomy fixed for
8 future years.

9 MS. BINGHAM: We've been preaching -- I have
10 personally been preaching about that for quite some time,
11 but the bottom line I think the staff and our
12 recommendation today is going to deal with the -- from the
13 board's perspective the concentration. This development
14 is not down the corner, around the corner in Houston.
15 It's right across the street.

16 MR. BARINEAU: That's right.

17 MS. BINGHAM: And you have got a 60-percent
18 deal and Trammell Crow is proposing a 50-percent deal
19 right across the street from you. You can look out the
20 windows like that building right there and you're in this
21 building.

22 MR. BARINEAU: That's right.

23 MS. BINGHAM: I think the staff is making a
24 recommendation on that issue. How we deal with the
25 legislature -- you all need to go deal -- developers need

1 to go talk with legislators about how these 50-percent
2 deals right across the street may adversely impact -- the
3 other unfortunate part about it is that the market studies
4 seem to state that the area is supported by 5- to 600
5 units, but then you've got about a thousand that are being
6 proposed, so the staff's got to make a determination as to
7 which two needs to go.

8 And I think one developer has withdrawn his
9 because he understands the market issues, so the other
10 developer, which is Trammell Crow, has some issues
11 about -- they still want to build right across the street
12 from you. So I think the staff has got a recommendation
13 on that.

14 How the legislature deals with it -- I've been
15 preaching this for four years, that 50 percent is tough
16 anywhere other than Houston and Dallas, so -- have I
17 misrepresented anything?

18 MR. BARINEAU: No. You've said kind of what I
19 was thinking. Thank you very much.

20 MR. JONES: Thank you, sir.

21 Mr. Chuck Washburn.

22 MR. WASHBURN: Chuck, Charles, whatever.

23 MR. JONES: Excuse me. I'm sorry.

24 MR. WASHBURN: That's okay.

25 MR. JONES: I couldn't -- I apologize.

1 MR. WASHBURN: I wanted to read this letter
2 that myself and my fellow developers within my company
3 have written concerning some of the problems that were
4 just spoken about, and if I might, I'd just like to go
5 ahead and read the letter since this states it so much
6 better than I can anyway.

7 My name is Charles Washburn -- I would like to
8 thank the board first for allowing me to speak and to
9 listen to me.

10 My name is Charles Washburn, and I am here on
11 behalf of LCJ Management, Inc., the developer of proposed
12 Parkside Terrace Apartments in Houston, Texas. I am here
13 today to express our concerns about the current structure
14 and viability of the private activity bond program and how
15 it relates to the tax-credit program.

16 Under the current lottery structure first
17 priority is given to developments which target 100 percent
18 of units at 50 percent of AMI. Based on both past lottery
19 results and the sheer number of applications submitted for
20 the lottery, any affordable housing developer who wishes
21 to have a chance at receiving an allocation submits an
22 application to meet this 50-percent AMI requirement.

23 Unfortunately, this priority system by its
24 design severely limits the geographical areas where these
25 types of developments can be built; specifically

1 metropolitan areas with high median income in order for
2 them to work at a 50-percent and only a 4-percent tax
3 credit. They're just not viable in lower income areas.

4 Also many times they have to seek out a QCT in
5 order to meet what the lenders want. It's not so much we
6 have to meet your requirements. Sometimes we can go 1.1,
7 but a lot of times with them we have to have better than
8 1.15. And you're right on that border line, so we have to
9 use these -- it really limits us because of this 50-
10 percent requirement.

11 Also in most cases developers need to find -- I
12 already stated that. I'll go on.

13 Another problem with the current law concerning
14 developers of affordable housing which in hindsight
15 appears to be an oversight by the drafters of the
16 legislation is that there is no income limit for occupants
17 of these proposed rent-restricted private activity bond
18 developments. This is unfair to both market rate and
19 affordable developments. Together these limitations are
20 creating a severe problem for both past and future tax-
21 credit developments.

22 Developers are being forced into markets where
23 there are already existing tax-credit developments, thus
24 creating a saturation of affordable units, much as we just
25 talked about. Without a change in the structure of the

1 lottery system, we are compromising the success of all
2 tax-credit developments.

3 As you are probably aware, a proposed Houston
4 development which was one of approximately four or five
5 developments located -- that were approved by the bond
6 lottery, which is located within a four mile radius were
7 one of them. Additionally, there are three existing 9-
8 percent tax-credit developments within the same radius.

9 Due to the close proximity of these
10 developments and due to our uncertainty of how the
11 department would rectify the situation, our company became
12 increasingly concerned of how the market would be impacted
13 should all of these developments come on line. After
14 concluding that none of the other developers receiving the
15 allocation would fall out of the running, we withdrew our
16 reservation.

17 And we didn't come to this decision very easy,
18 because we lost a lot of money in doing so. There was a
19 lot of discussion and debate between the partners and
20 actually prayer, which is kind of old fashioned in this
21 day, but there was prayer over it.

22 Although our company felt that we had the best
23 opportunity to be successful of all the proposed
24 developments -- we were the furthest out of this market
25 glut -- we felt this decision was in the best interests of

1 both past and future affordable developments. It was our
2 contention that the statement needed to be made regarding
3 the way the lottery system is administered.

4 If the TDHCA and the Texas Bond Review Board do
5 not work together in restructuring the lottery system,
6 affordable housing is not getting the best use of the
7 funds made available to the State of Texas.

8 Representatives from our company as well as other
9 developers and lenders in the industry would be happy to
10 discuss our concerns and possible solutions with both
11 departments. I am sure that TDHCA and Texas Bond Review
12 Board are aware of this dilemma and are interested in, as
13 we are, in making sure that affordable housing needs in
14 Texas are met in a fair and equitable way.

15 In the meantime our company is hoping to
16 utilize completed plans and specifications for Parkside
17 Terrace Apartments. Our company is pursuing another
18 affordable housing need by seeking HUD approval for a 221
19 D3 loan which would serve tenants of all three categories:
20 50, and 60 to 80 percent -- which the 60 and 80 we think
21 is really undersold.

22 Thank you for the opportunity to speak, and we
23 look forward to working to create quality affordable
24 housing in Texas.

25 Some of the thoughts that just kind of ran

1 through my mind is why couldn't they do a lottery, say, on
2 geographic areas like you have specifically put out so
3 that when the ball falls, you don't have all of them fall
4 in Houston, which is just the luck of the draw any time --

5 MS. BINGHAM: I've been saying for four years
6 that the focus in the tax credit doesn't look anywhere but
7 in the high income markets like Houston and Dallas --

8 MR. WASHBURN: Exactly.

9 MS. BINGHAM: -- and you put them in 50-percent
10 you just create a monster. And guess what happened? They
11 have all fallen in Houston.

12 I live in Houston. I support affordable
13 housing in Houston. But I think I'm bright enough to see
14 that you can't put a 60-percent deal right here and a 50-
15 percent over here and you're just right around the corner
16 and keep going, and they all were lucky enough with the
17 ball.

18 But we have talked about that, and even there's
19 some legislation now that I think the staff has put in
20 this book that makes the situation worse. It goes against
21 what we are talking about now. If this legislation is
22 approved, instead of four deals you're going to have ten
23 the next time, because they're not going to Lamesa. They
24 can't build with the income limits there, so they all
25 concentrate in Houston and Dallas, and they are now not

1 around the corner but right across the street from the 9-
2 percent tax-credit deals.

3 So that is a legislative issue. The Bond
4 Review Board really can't deal with it. The legislators
5 have -- they have to notify their legislators who keep
6 sponsoring -- this bill that the staff sent out is
7 sponsored by Ms. Earhardt, but this session of the
8 legislature compounds the problem that you're talking
9 about. It does not help that problem. It makes it much
10 worse.

11 MR. WASHBURN: One of the suggestions, as I've
12 said --

13 MS. BINGHAM: The suggestion is that you all go
14 over to the legislature and make the information that you
15 all --

16 MR. WASHBURN: That was my next suggestion.

17 MS. BINGHAM: -- just made known to us known to
18 them, because we are dealing -- I've read the staff's
19 recommendations for Houston. We are dealing with it as
20 best we can by not oversaturating the market, but a focus
21 in tax-credit deals does not look anywhere but in Houston
22 and Dallas, maybe Austin and maybe San Antonio. It don't
23 work any place else.

24 MR. WASHBURN: If you get in San Antonio you
25 probably have to get in a QCT there to make --

1 MS. BINGHAM: You just -- so here all these
2 lottery deals come out in Houston, and it's not just
3 painful for this agency. It's painful for us in Houston.
4 Which ones do we support? It's a nightmare, but it's a
5 legislative nightmare.

6 MR. WASHBURN: My second --

7 MS. BINGHAM: So they're in session. March
8 over there and talk about this --

9 MR. WASHBURN: We're going to do that tomorrow.

10 MS. BINGHAM: -- because you're preaching to
11 the choir right now.

12 MR. JONES: Mr. Bethel.

13 MR. BETHEL: Mrs. Bingham, wasn't it last
14 session that the legislative -- they passed legislation
15 with -- their intent was if you got a lottery that you got
16 the deal no matter what, and this board had no discretion
17 over that, I think --

18 MS. BINGHAM: And that's still the case today
19 unless we find a technical problem, and in this case we
20 have found technical problems in terms of the market
21 studies not supporting some of these deals, because they
22 are just too close to --

23 MR. BETHEL: The legislation is --

24 MS. BINGHAM: So you're right. We don't have
25 much choice other than go to -- there's some technical

1 issues or go to the market study and say, Look. You came
2 out the lottery first but, oops, you're right across the
3 street from a 9-percent tax-credit deal, so it doesn't
4 make market sense. You're a victim of it. The -- Mr.
5 Barineau is almost, depending on what the board does
6 today, a victim of it.

7 It's just -- but we -- obviously it's unlawful
8 for our staff to lobby the legislature.

9 MR. WASHBURN: Well, ours --

10 MS. BINGHAM: We can't -- the staff cannot
11 lobby the legislature. It is against the law.

12 MR. WASHBURN: Can I ask a question?

13 MS. BINGHAM: Okay.

14 MR. WASHBURN: Well, I know --

15 MS. BINGHAM: They can answer questions but
16 they can't lobby the legislature.

17 MR. WASHBURN: Right. When rural development
18 ran into a lot of problems, they had what they called
19 stakeholders conferences where they put together like the
20 board and developers and syndicators and bankers and
21 legislators --

22 MS. BINGHAM: Right.

23 MR. WASHBURN: -- in the case of them, it was
24 congressmen out there.

25 MS. BINGHAM: Right.

1 MR. WASHBURN: And they worked out a lot of
2 problems that way. I don't know if that's possible or
3 not, but that was my second --

4 MS. BINGHAM: That's another suggestion.
5 However, if the staff is attending those and is intending
6 to lobby the legislature, I think they can't be paid for
7 their expenses and time by state funds, so it would have
8 to be something that the -- I have attended the meetings,
9 and I do it on my own time and I pay the expenses, but I
10 can't get reimbursed from the state for sitting in
11 sessions to present legislation to the legislature and use
12 state vouchers to pay for it. I can't get the travel
13 reimbursement.

14 So from a local standpoint I could do it -- I
15 use the City of Houston's phones when I'm doing it. I
16 don't use the state's, because it's against the law.

17 MR. WASHBURN: I think you'd probably find that
18 most of the developers would be more than willing to set
19 up something like that.

20 MS. BINGHAM: Right. So I think that needs to
21 be done, that you work with -- I think the developers got
22 a group now called the Affordable Housing whatever, and --

23 MR. WASHBURN: I'm going to join that. It's
24 another one I need to get into

25 MS. BINGHAM: -- and as opposed to sending

1 emails about the executive breakfast, they need to be
2 sending emails about policy over to the legislature about
3 how this 4-percent tax-credit can't be done in a rural
4 area, if they really care about rural initiatives.

5 They can be done in Houston and Dallas, and
6 guess what? They can't be done there any more because
7 we've got too many of them, and they're all popping out of
8 the lottery at the same time, because everything has to
9 be -- like Mr. Bethel said, it has to be 100 percent at 50
10 percent of median income, and you got -- I see members of
11 that group in the back. I see members of the non-profit
12 groups. Those are the kind of things that you all need to
13 be over at the legislature talking about.

14 She cannot lobby the legislature. She can
15 answer their questions. It is illegal to lobby -- for
16 this staff to lobby the legislature. They can answer
17 questions that they pose to them, but that's what the
18 stakeholder groups need to do. They're in session. Go
19 tell them your problem.

20 We recognize the problem. You're preaching to
21 the choir.

22 MR. WASHBURN: Well, I think there's some real
23 important committee meetings tomorrow at 4:00 or 5:00, if
24 you guys want to show up.

25 MR. JONES: Thank you.

1 MR. WASHBURN: Thank you very much.

2 MR. JONES: Thank you, sir.

3 Mr. Chris Bergmann.

4 MR. BERGMANN: Good morning. My name is Chris
5 Bergmann. I'm affordable housing partner for Trammell
6 Crow Residential. I'm the guy that's across the street
7 from John Barineau.

8 I've been in this business a long time,
9 probably since it started as far as the tax credits are
10 concerned, and Trammell Crow Residential is probably one
11 of the -- we claim to be the premier -- or built more
12 apartment units in the United States than any developer in
13 the country.

14 We're financially strong as I think the name
15 indicates. We understand this program, and we understand
16 markets and we understand product, and we feel that we
17 have a very good handle on our business.

18 I think that some of the comments Ms. Bingham
19 has made this morning are socialistic in basis. If we
20 have a conventional type product that we want to build and
21 there's a competitor across the street that's up and
22 running, we don't have any -- the only thing that can stop
23 us is a zoning ordinance or a decision business wise not
24 to proceed.

25 If our lenders and our equity providers and

1 partners want to proceed and want to take that risk then
2 we're in a free market economy, and I don't think anybody,
3 especially a governmental body, has a right to justify
4 those type of situations for one individual or one
5 project.

6 That said, our project is in a market where
7 there's roughly 900 units in a three mile radius that are
8 slated in the lottery queue as I call it. We are
9 currently number three in the three that are in the
10 lottery. In other words, the other two have lower lottery
11 draws than we do.

12 Approximately three weeks ago through the
13 finance division of the TDHCA, I received a phone call
14 from Mr. Robert Onion and there was a meeting between Ms.
15 Stiner and I think her people concerning this issue, and
16 through the finance department and not the tax-credit
17 department, I received word that there was a decision made
18 that there was only going to be two projects, roughly 500
19 units, allowed in that market. Since my lottery number
20 was the third lowest, my deal was more than likely not
21 going to make it.

22 At that point in time -- and before I go any
23 further, I have firm financing commitments from Bank of
24 America, one of the largest lenders in the country, firm
25 equity commitments from our equity provider, which is Sun

1 America. I've expended roughly 210- \$220,000 at that
2 point in time, three weeks ago. I made a decision not to
3 proceed because of that phone call.

4 And personally, I'm very upset about that,
5 because -- and nothing against my fellow developers out
6 here. I believe I have the best site, and I have the
7 strongest financing and development team of any of the
8 developers that I'm competing against, and this decision
9 was made or at least not made but kind of back through the
10 grapevine given to me that because of the lottery number,
11 my deal wasn't going to make it, and that's a decision
12 that you all have to make.

13 I think that when you look at the concentration
14 issue, there's a problem there. I don't think all these
15 projects should be built, but the best ones should be
16 built, and that's a decision that the staff has to make
17 based on the market studies, based on the development
18 team, based on the financing package. The other two
19 deals -- I don't know if you even have firm commitments
20 from any of the lenders or anything else out there. I got
21 paper right here, signatures that are dated probably 30
22 days. I could have closed this deal.

23 This deal is not -- we have a model -- a
24 profitability model. This deal does not meet our
25 profitability model. We are not making -- and not that we

1 make a lot of money on these deals, but we're not making
2 the money on this transaction that we typically -- as our
3 risk profile has generated and determined how much money
4 we have to put at risk and how many people have to sign on
5 the dotted line.

6 It doesn't meet that, but we felt that it was a
7 good project for the community, and the only people that
8 came to the TEFRA hearing that were against the project
9 were developers that were -- had their special interests
10 because of competition.

11 I have here a letter that I'll give -- and I
12 guess this could go to Chernobyl.

13 Now, when people make decisions because we have
14 a very short period of time to go from start to closing,
15 and if somebody would have told me -- this was all known
16 when the lottery balls dropped at the end of October.
17 This was all known when the allocations were passed out at
18 the beginning of January. And --

19 MS. BINGHAM: And I agree with you --

20 MR. BERGMANN: -- and if somebody would have
21 said something and said, Chris, this is what we're trying
22 to do --

23 MS. BINGHAM: Let me go -- since you talked
24 about my socialist theory, let me go back to something
25 else that has occurred since the lottery ball dropped in

1 October. We had -- our staff led by Brent Stewart
2 recommended to this board in October of 2000 17 lottery
3 deals for your company.

4 MR. BERGMANN: That's correct.

5 MS. BINGHAM: I voted for each and every one of
6 those.

7 MR. BERGMANN: I know you did.

8 MS. BINGHAM: And the few months previous to
9 that, he made a recommendation on your last lottery deal.
10 I think I even made the motion -- he recommended that we
11 waive the fees. I think I made the motion to approve
12 that.

13 But guess what you did in January or February?

14 That same employee that made a recommendation to this
15 board -- and I would vote for it all over again. I'd vote
16 for your previous projects all over again -- you hired
17 that employee for your company at Trammell Crow.

18 MR. BERGMANN: That's correct.

19 MS. BINGHAM: Now, if a developer had hired
20 Chernov after he had referred 17 deals to this board, you
21 all would be trying to send him to jail. I wish Brent
22 Stewart well, but he recommended 17 deals from your
23 company to this board in October of 2000, and you talk
24 about the finance division, what the finance division told
25 you. That's the division that he headed.

1 MR. BERGMANN: Margie, I don't think this is
2 the time or the place to do battle like this.

3 MS. BINGHAM: I'm not doing battle. You're
4 talking about my socialist theory. I am simply telling
5 you --

6 MR. BERGMANN: No. I don't mean that in a
7 derogatory way. I think if we have to look at the way the
8 markets operate and to make a decision that one project
9 shouldn't go across the street from another project --

10 MS. BINGHAM: And that was a judgment decision
11 that you should have made when you filed that application.

12 MR. BERGMANN: The rules do not state that.

13 MS. BINGHAM: I understand.

14 MR. BERGMANN: And what's happening here is
15 this rule that is being proposed to the board should be
16 considered in the QAP. I don't think the staff has the
17 right to make policy for the board.

18 MS. BINGHAM: Well, they're not going to make
19 policy. It's being recommended for the board's
20 consideration.

21 MR. BERGMANN: And I think there needs to be
22 more public comment. This is a QAP issue.

23 MS. BINGHAM: I agree. That's what we have as
24 public comment. But I am just letting you know that I
25 know --

1 MR. BERGMANN: You and I have gotten along a
2 long time --

3 MR. JONES: Mr. Bergmann, if you would address
4 the chair?

5 MR. BERGMANN: Excuse me.

6 MR. JONES: And Ms. Bingham too.

7 MR. BERGMANN: Ms. Bingham.

8 MS. BINGHAM: I have no problem with Trammell
9 Crow. I voted for the 17 deals. I would do it all over
10 again. But you hired an employee who made that
11 recommendation a month ago.

12 MR. BERGMANN: That has nothing to do with it.

13 MS. BINGHAM: I think it should be known.

14 MR. JONES: Mr. Bergmann, do you have anything
15 else for the board?

16 MR. BERGMANN: No. I have my termination
17 letter for my project. I want to thank you for allowing
18 me to speak. I think that when considering this policy
19 issue that it's the right thing to do but it's the wrong
20 time to do it.

21 Thank you.

22 MS. BINGHAM: Thank you. I sincerely
23 appreciate your bringing your viewpoint to us, but I knew
24 when all these lottery balls fell that that was going to
25 be a problem.

1 MR. BERGMANN: Let's go out to lunch, Margie,
2 if you want to --

3 MR. JONES: Ms. Antoinette Jackson.

4 MS. JACKSON: I'm going to pass my time to Bill
5 Wenson.

6 MR. JONES: Mr. Bill Wenson.

7 MR. WENSON: Good morning. My name is Bill
8 Wenson, and I'm here today to talk about one of the other
9 Houston properties that received an allocation of 4-
10 percent credits.

11 Unlike the other ones, I'm not a new
12 construction project. I'm a preservation project, and I'd
13 like to talk a little bit about that, and the reason I'm
14 here is to discuss the underwriting that has occurred on
15 the property and the fact that staff is recommending a
16 reduction in the credits that we have requested.

17 However, in light of the timing issues with the
18 bond allocations, regardless of my comments today I am
19 asking that the board approve the project as suggested by
20 staff today and allow me the appeal process over the next
21 couple of weeks to work with staff and try to iron out the
22 issues that we have.

23 As I mentioned, this is a preservation
24 property, and it's a Priority One bond, tax credits,
25 Section 8, requiring subsidy layering review, and we're

1 using FHA financing. All of those together make it a very
2 difficult project to put together.

3 The other comment that I'd like to make is that
4 we have to remember there is a finite number of bonds that
5 have been allocated to this property, and going out and
6 getting more financing is not really an alternative on
7 these kinds of properties. By definition we're here to
8 preserve existing affordable housing.

9 The tenants and the rent structures -- I have
10 submitted a packet of information. If I could direct you
11 to two letters in there? The first one is a letter from
12 Danter Company, who is the company that did the market
13 study for us, and in response to the underwriting, they
14 have written this letter that was received by your staff
15 this morning, and I'd like to just highlight a couple of
16 areas on it.

17 On page 2 you'll see I have highlighted -- and
18 it's easy to follow -- while TDHCA target rents are based
19 on the comparable market rents, these higher rents will
20 significantly impact the marketability and potential
21 absorption of the project. In each case the lower rent
22 either maximum tax credit or market rent was considered.

23 The number of units proposed at the site must
24 be considered relative to the project's ability to achieve
25 a given rent level. Previous research conducted by the

1 Danter Company indicates that all other factors being
2 equal, large properties must be a better value in the
3 marketplace than smaller properties due to the high number
4 of units that much be rented each month. To generate a
5 sufficient number of potential renters, larger properties
6 typically need to set rents below comparable market rent
7 to represent a value within the area -- the market area.

8 If we could go to the next page, page 3, the
9 next thing I've highlighted there is the fact that we
10 would derive 11 percent of the market out of our property
11 if we go to the higher rents than what we are proposing.

12 Page 4 is a table that breaks down the tax-
13 credit properties that are surrounding us currently, and
14 that doesn't include the properties that are going to come
15 online and definitely affect our market. The tax-credit
16 properties in our market area are renting on one bedrooms
17 from 51 cents to 54 cents per square foot. Our
18 recommended or proposed rents are 61 cents a square foot,
19 higher than what is being -- gotten in the market today.

20 Staff is recommending we charge 75 cents a
21 square foot.

22 Two bedrooms are the same thing, where the
23 market is 49 to 54 cents. We are recommending 55 cents,
24 higher than the market. Staff is underwriting us at 70
25 cents.

1 Those are the two that are the problem I think
2 in -- or the discrepancy in our underwriting. The other
3 highlighted sentence on that page, the three tax-credit
4 properties all offer larger units than those at Palomino
5 Place. There can always be discussion on whether a one
6 bedroom's a one bedroom and the size makes no difference.

7 I feel that the discrepancies between these two, the one
8 and two bedrooms, is just far too great to consider that.

9 On page 5 there is another table -- I did not
10 highlight it -- but at your leisure please take a look at
11 that and that will show you that we are still in the range
12 of all of the existing units there.

13 The rents as proposed are very reflective of
14 current standards among the three tax-credit properties in
15 the area. The rents TDHCA would like to implement are
16 among the highest compared to existing tax-credit
17 alternatives, and the subject units are among the
18 smallest.

19 Their estimation -- at our proposed rents we
20 would need an 11- to 14-month absorption period to reach
21 our rent structure. The rent structure that's proposed by
22 staff would take between 24 and 30 months to absorb, and
23 could potentially be longer than that. That's two to
24 three years of absorption time.

25 MS. BINGHAM: Are you going to be here when

1 they make this recommendation?

2 MR. WENSON: I'm sorry?

3 MS. BINGHAM: Are you going to be in the
4 building when they make the recommendation?

5 MR. WENSON: Yes, ma'am.

6 MS. BINGHAM: Maybe we can take up some of that
7 when they -- Mr. Chair, can we bring him back to the
8 podium when staff makes the presentation?

9 MR. JONES: We can if that's the way you'd like
10 it.

11 MS. BINGHAM: Yes. I can miss these numbers.
12 I think when the staff makes the presentation you just
13 come back up and present it at that time so we can --

14 MR. JONES: Mr. Wenson, is that okay with you?

15 MR. WENSON: Yes, sir.

16 So do you want me to stop at this point?

17 MS. BINGHAM: Yes. All underwriting -- when
18 the staff makes their presentation, you can come up with
19 them and just -- because we'll forget the numbers. I'll
20 forget the numbers by the time they get to the project.
21 It would be more useful if --

22 MR. WENSON: Thank you.

23 MS. BINGHAM: -- if you'd come up as they're
24 making the presentation and we can compare what you are
25 saying against what they are saying.

1 MR. WENSON: Thank you.

2 MR. JONES: Don't let us forget you.

3 MR. DAROSS: Mr. Chairman, I'd like to make a
4 comment if I could, please.

5 MR. JONES: Sure.

6 MR. DAROSS: I sat here during the last
7 gentleman's presentation thinking about whether or not to
8 say something, and I decided I need to say it just to --
9 feelings I've had for a long time.

10 Last summer when Ms. Bingham raked Brent
11 Stewart over the coals, I sat here and didn't say a thing.
12 Today she has in effect alleged that he got a job with
13 Trammell Crow as a reward for recommending projects of
14 theirs.

15 MS. BINGHAM: I didn't say that.

16 MR. DAROSS: Everybody in this room knows
17 that's what the implication was, Mr. Chairman.

18 And I resent that implication. I think Brent
19 Stewart is one of the finest people who ever worked for
20 this agency, and I just wanted him to know that at least
21 for this board member that opinion is definitely not
22 shared.

23 MS. BINGHAM: I don't believe that he did that.
24 I do not believe he did that. I wish him well. I have
25 no problem with him. The statement I made that if another

1 employee did it, that would be an issue. That's what I
2 said.

3 MR. JONES: Thank you, Mr. Daross.

4 Is Stephanie Graves?

5 MS. GRAVES: I'm going to defer my time to Bill
6 Wenson later on.

7 MR. JONES: Thank you, ma'am.

8 Mr. John Garvin.

9 MR. GARVIN: Good morning. My name's John
10 Garvin. I'm with the Texas Affiliation of Affordable
11 Housing Providers, earlier referred to as Affordable
12 Housing Whatever. Just a quick comment.

13 We appreciate the need for a concentration
14 policy. I've received a lot of calls from my membership
15 over the last couple of days and we'd just appreciate more
16 time to evaluate the outcome of that.

17 Thank you.

18 MR. JONES: Thank you, sir.

19 Is there anyone else that would like to speak
20 to the board?

21 (No response.)

22 MR. JONES: I have no other requests or
23 affirmation forms. Is there anyone else?

24 (No response.)

25 MR. JONES: One more time?

1 (No response.)

2 MR. JONES: One more time?

3 (No response.)

4 MR. JONES: Hearing none, I will close the
5 period for public comment subject to Mr. Wenson. I
6 believe he would like to testify at the time that the
7 matter comes up.

8 We will then turn our attention to Item Number
9 1 on our agenda, which is the presentation, discussion,
10 and possible approval of the minutes of the board meeting
11 of January 26, 2001.

12 MR. DAROSS: Mr. Chairman, I'd move the minutes
13 be approved as submitted, except that on page 7 I believe
14 there's a word that needs to be corrected. There's a one-
15 line statement that says Mr. Jones rested the motion for
16 the record. It probably should read Mr. Jones restated
17 the motion for the record.

18 MS. BINGHAM: Mr. Chairman, I have one other
19 amendment to the minutes on page 6.

20 MR. JONES: Yes, ma'am.

21 MS. BINGHAM: The third paragraph from the
22 bottom. It says, In properties that are designed as
23 townhome units, the project owner must include one bedroom
24 and one bedroom on the ground level of all units. For
25 staff clarification, I think that meant all tax-credit

1 units?

2 VOICE: That's correct.

3 MR. JONES: We have two amendments. I take
4 that as a motion to approve the minutes with the two
5 amendments that have been noted.

6 MR. BREWER: I second.

7 MR. JONES: There's been a second. Discussion?

8 (No response.)

9 MR. JONES: Are we ready to vote? I assume
10 that we are. All in favor of the motion please say aye.

11 (A chorus of ayes.)

12 MR. JONES: All opposed to the motion please
13 say nay.

14 (No response.)

15 MR. JONES: The ayes have it.

16 Item Number 2, presentation, discussion, and
17 possible approval of programmatic items: approval of
18 appeals process for housing finance programs, Ms. Stiner.

19 MS. STINER: Thank you, Mr. Chair.

20 At the last meeting of the board the board
21 appointed members of a committee to work on an appeals
22 process, including board member Ms. Marsha Williams. That
23 committee has met a number of times and has concluded with
24 the recommended policy to present to the board today. I'm
25 going to ask David Burrell, director of housing programs,

1 to come forward and make the presentation on that
2 particular item.

3 MR. BURRELL: Good morning. I'm David Burrell,
4 director of housing programs.

5 Back during the fall of 2000 we went through a
6 Sunset review process, and during that process it was
7 recommended by the Sunset Advisory Commission that the
8 Texas Department of Housing and Community Affairs develop
9 a board appeals process. I'm going to ask Ms. Groneck if
10 she will --

11 MS. GRONECK: They've been handed out.

12 MR. BURRELL: Okay.

13 Ms. Groneck has given you all a short handout
14 which is the exact recommendation which we received from
15 the Sunset Commission. On the top page in the second will
16 be a copy of the appeals process in our CDBG program, and
17 I'll explain that a little bit further.

18 On January 26, which was our last board
19 meeting, the board established an appeals process
20 committee in order to develop an appeals process for the
21 board. On that committee we have Ms. Marsha Williams, who
22 is our board member, Delores Groneck, who is in our
23 executive division, Sandy Mauro, who is director of our
24 CDBG program, Anne Paddock, deputy general counsel, Tom
25 Gouris, director of underwriting, and myself as director

1 of housing programs.

2 Also in attendance at those meetings were
3 individuals from the specific housing programs. We had
4 Pam Morris, director of housing finance, Cherno Njie,
5 manager of the Low Income Housing Tax Credit Program,
6 Robert Onion, who is now director of our multifamily
7 finance, Keith Hoffpauir, manager of the Housing Trust
8 Fund program.

9 In developing the policy we primarily followed
10 the recommendation of the Sunset Advisory Committee to
11 follow the outline of our CDBG program for appeals
12 process, and we gave you all a copy of that. During the
13 process of preparing our policy we also reviewed
14 information from several other states, those states being
15 Oklahoma, Nebraska, Florida, California, Colorado,
16 Michigan, New Mexico, and Pennsylvania.

17 During the process the committee met four times
18 as staff and came up with the recommendation which we
19 presented to Ms. Williams. At the time that we presented
20 our recommendations to Ms. Williams, she did a thorough
21 review and she approved what we had presented. That
22 policy is what you have in your board today.

23 Under the policy we are recommending that there
24 be a committee established by the board to consist of
25 three members, and that those three members would be board

1 members. Under the policy an applicant could apply under
2 the funding of tax credits or just normal funding under
3 the Home program or under the Housing Trust Fund program
4 when there is an appeal of a disposition that has been
5 made by the board.

6 Under that policy an individual or a company
7 could appeal based upon three reasons. Number one, the
8 misplacement of an application; number two, because of a
9 mathematical error; or number three, because of a
10 procedural error.

11 When filing an appeal, the individual or
12 company must file the appeal within five days of the board
13 decision. When the appeal is filed, then staff will
14 prepare a packet for the board appeals process committee,
15 and it has to be done within two weeks. Once the appeals
16 process committee receives the information, then they have
17 approximately two weeks until the next scheduled --
18 regularly scheduled board meeting to present their
19 findings to the full board.

20 The decision of the full board is the final
21 decision in the matter.

22 There are two decisions that can basically be
23 made under this appeals process. The board can concur
24 with the appeal and make restitution or provide funding to
25 the Claimant, or they can disagree and just give

1 recommendation -- explanations as far as the reason for
2 not approving that particular item.

3 In instances where the appeal is sustained and
4 we find that there is justification to continue forward,
5 we will go ahead and fund you the current year's funds
6 allocations if there are any available, and if there is
7 not then we can go to the next year's funding allocation
8 and do a forward funding. In instances where the appeal
9 is turned down, then the board will have someone to
10 explain to the individual or company the reason for the
11 denial or rejection of that claim, and that will be final.

12 This policy does not cover the 4-percent bond
13 lottery credits in the tax-credit program, primarily
14 because of the fact of -- the reason that 4-percent
15 credits are allocated at the end of October and because of
16 deadlines which has to be met, the appeals process
17 committee wouldn't be able to move fast enough to get the
18 appeal made. However, the Multifamily Housing Finance
19 Division has an informal process that they're currently
20 using for handling appeals, and that has worked very well
21 from what I understand.

22 So what we're doing is we're recommending that
23 the board approve this board appeals process as we have
24 recommended today, and we are also going to recommend that
25 the board between now and the next board meeting appoint a

1 board appeals process committee, which will consist of
2 three members of the board.

3 MR. BREWER: Mr. Chairman, I have a question.

4 MR. JONES: Yes, sir, Mr. Brewer.

5 MR. BREWER: If we're going to continue the old
6 Low Income Housing Tax Credit program, the ad hoc
7 committee being the entire board, do we really want to
8 appoint for appeals three members or just bring it to the
9 entire board? Do we want to have a committee just to have
10 a committee?

11 MR. DAROSS: Well, I have another question that
12 sort of relates to that. Essentially what this appeals
13 process is is something like a motion for reconsideration,
14 because we're appealing to the same body who made the
15 decision in the first place. Was there consideration
16 given to and is there any sort of statutory authorization
17 for there to be an appeal from this board to somebody with
18 authority over this board?

19 I'm thinking of course in terms of the judicial
20 system where you have an appellate court and the Supreme
21 Court, and I don't know that we have the authority to do
22 anything like that. Have any of the other states looked
23 at something where you'd be appealing to an entity of some
24 sort outside the agency?

25 MR. BURRELL: We didn't find any. In fact, our

1 process is probably a lot more detailed than most of the
2 other states.

3 MS. BINGHAM: Could you explain again why you
4 said that you didn't include the 4 percent I guess that
5 fall out of the lottery, and they have 120 days, but it's
6 not really a selection process. You get your lottery
7 ball. But you -- like this issue this morning. Do you
8 have a process where -- I guess it would be too late, but
9 do you have a process where you -- I guess we need to air
10 it out at the full board level as to like we have today
11 about the market studies and all those issues. Any other
12 thoughts?

13 Marsha, did that come up?

14 MS. WILLIAMS: No. Not that I'm aware of.

15 MS. STINER: Mr. Chair, may I?

16 MR. JONES: Yes.

17 MS. STINER: In the staff review of the
18 recommended policy that was to be presented this morning
19 around the table a couple of the directors raised the
20 issue about the 4-percent credit, and it was determined at
21 that time because of timing issues you wouldn't be able to
22 come back to this board and still make your reservation
23 date, and we thought we would bring it to the attention of
24 this body today and allow the board to determine if there
25 needed to be a compressed process for the 4 percent so at

1 least get it out for discussion.

2 But it did not come up I understand in the
3 committee, but when we were having our general staff
4 meeting with the directors, someone raised that issue, and
5 that's why we're raising it today, to let you know it's
6 not included in here, and the reason it wasn't included by
7 the committee members and those who worked with you was
8 because it was their thinking going in that the timing
9 element of getting an appeal lodged, having the board to
10 consider it and back, you would be beyond their
11 reservation date.

12 So it's an issue that's out on the table for
13 discussion and action if appropriate by the board today.

14 MR. CONINE: If I could follow up on that
15 question, Ms. Stiner, if a situation like Mr. Bergmann
16 relayed to us a few minutes ago about getting a call three
17 weeks ago, if that process could be say 30 days. In other
18 words, we set an internal staff limit of 30 days ahead of
19 the board meeting to make those determinations where the
20 appeals process could go in front of the board meeting
21 instead of behind the meeting, would that not be a way to
22 resolve that issue?

23 MS. STINER: The appeals process to go
24 before --

25 MR. CONINE: Right.

1 MS. STINER: -- any action by the board?

2 MR. CONINE: That's correct. If an applicant
3 understands he's getting kicked out 30 days prior to the
4 board meeting, for whatever reason, markets or whatever,
5 then the applicant could appeal to the board or this
6 subgroup of the board, whatever we decide to do, in the
7 interim period and make an appeal at that point to get
8 back in the underwriting game plan because of some error
9 or some omission. Is that something we could consider?

10 MS. STINER: You can consider any procedure
11 you'd like to consider relative to the appeal process.
12 That wasn't one that was considered in this committee, and
13 I guess I just need to let the committee members come and
14 talk because I didn't attend any of those meetings. I
15 attended the meeting with the staff, but was that -- is
16 that something that could possibly be considered? I know
17 the committee did not deliberate on that.

18 MR. BURRELL: We did consider it. However --

19 MS. STINER: Good.

20 MR. BURRELL: -- because of the fact that this
21 is a board appeals process, we felt that they could only
22 appeal a board decision. As I understand it, though, from
23 talking to Robert in the multifamily finance, that they're
24 basically using an informal process such as that now, and
25 I can let Robert address that.

1 MS. STINER: Robert Onion is the director --

2 MR. BURRELL: He's the director of

3 multifamily --

4 MS. STINER: And member of the committee.

5 MR. BURRELL: -- 4-percent bond lotteries.

6 MR. ONION: Good morning. For the record, my
7 name is Robert Onion, director of multifamily housing.

8 We currently have an informal process -- a two-
9 step process in the process of sponsoring applications to
10 the Bond Review Board similar to what we had last year
11 with Deerwood Pines or Maxey Road [phonetic]. The
12 applicant did not meet our underwriting criteria, just
13 missed our benchmark. We suggested that if you wanted to
14 be included to be sponsored that he could make an appeal
15 to the board to be included in that sponsor of that
16 application --

17 MS. BINGHAM: That was Mike Robertson
18 [phonetic]. Right?

19 MR. ONION: Correct.

20 With regard to the 4-percent credits, usually
21 the underwriting process is very compressed time
22 standpoint. The underwriting report comes out just before
23 the board has a chance to consider it.

24 MS. BINGHAM: And it's also with conditions,
25 isn't it, even then?

1 MR. ONION: Yes, ma'am. So there's not a time
2 process to allow another board meeting to consider the
3 appeals process. The informal process is being used today
4 as you've heard from the developer on Palomino Place,
5 which is Bill --

6 MS. BINGHAM: Bill Wenson.

7 MR. ONION: So that's the process we currently
8 have as far as the informal.

9 MS. STINER: Mr. Chairman, may I ask a
10 question?

11 MR. JONES: Sure.

12 MS. STINER: Robert, the difference -- I must
13 tell you the difference I see with that is that that's an
14 informal appeal process that has to do with the
15 underwriting and the financial aspects of the application.

16 The basis on which we're talking about -- the similar
17 situation that wa described by Trammell Crow is we made a
18 decision based on something other than the financial
19 aspect of the application about some concentration issues.

20 MS. BINGHAM: That's a market issue.

21 MS. STINER: Would that be covered by an
22 informal appeals process that you have now?

23 MS. BINGHAM: Oh. We're talking about
24 selection under the 9 percent --

25 MS. STINER: The selection of the 9 percent is

1 covered by this particular policy that's being recommended
2 this morning.

3 MS. BINGHAM: Right.

4 MS. STINER: It's the 4-percent tax exempt
5 developments that would not be covered because the
6 committee had reached the conclusion that there were some
7 timing issues.

8 Another matter was introduced this morning that
9 they would maybe be covered by this informal appeals
10 process that you're already -- you have in place in the
11 multifamily, but your process does not cover the tax
12 credits aspect of that, does it?

13 MR. ONION: That is an informal process that --

14 MS. STINER: It covers all of it?

15 MR. ONION: All of it.

16 MS. STINER: Okay.

17 MS. BINGHAM: Now, is the -- Marsha, under the
18 9 percent are we primarily talking about selection versus
19 underwriting? I guess underwriting issues because you may
20 not get selected because of an underwriting issue, but are
21 we talking about selection or are we --

22 MS. STINER: Well, Ms. Williams of course can
23 answer. She's on the committee.

24 MR. BURRELL: Can I state one thing?

25 MR. JONES: Certainly.

1 MR. BURRELL: Under our normal board appeal
2 process as we're presenting, there are only three reasons
3 that a person could appeal --

4 MR. JONES: Okay.

5 MR. BURRELL: -- and it really doesn't have to
6 do with underwriting.

7 MS. BINGHAM: Could you go over those again,
8 please.

9 MR. BURRELL: It would be for the misplacement
10 of an application, a mathematical error, or a procedural
11 error.

12 MS. BINGHAM: That's based on the application
13 submission items -- application selection and submission.
14 That is not underwriting per se.

15 MR. BURRELL: That's right.

16 MS. BINGHAM: Okay.

17 MR. CONINE: No. The way I read that, I beg to
18 differ I guess, but if the application is not processed by
19 TDHCA staff according to the procedures in effect; in
20 other words --

21 MS. BINGHAM: In the QAP?

22 MR. CONINE: Yes. The QAP and then there's the
23 rules of the game, but --

24 MS. BINGHAM: That includes underwriting?

25 MR. CONINE: I would think so.

1 MS. BINGHAM: Okay.

2 MR. CONINE: I would think that's a catch-all
3 to include everything is the way I read it.

4 MS. BINGHAM: That would include if the staff
5 said you didn't get a project because your market study
6 didn't support your project you may dispute that, but
7 you're saying that is not in this recommended appeals
8 process?

9 MR. CONINE: No, it is.

10 MS. BINGHAM: It is?

11 MR. CONINE: It is. The way I read it it is.
12 Maybe I'm reading it differently.

13 MR. BURRELL: No. It has to be a procedural
14 error. That would just be where one of --

15 MS. STINER: Again, Mr. Chair --

16 MR. CONINE: Let me put a hypothetical in front
17 of you. If the market study says do the project, which
18 all of them do, and you choose not to do the project, is
19 that a procedural error?

20 MR. BURRELL: No.

21 MR. CONINE: It's not? Why wouldn't it be
22 under the way I read this, because the market study said
23 do it. They all say do it.

24 MS. STINER: Mr. Chair --

25 MR. JONES: Sure.

1 MS. STINER: -- may I -- it would not be
2 procedural because if a -- the underwriting on these
3 developments are an exercise in determining the
4 creditworthiness, and that's not procedural in my
5 estimation, but again, this is open to interpretation. So
6 since it's open to interpretation, maybe what we need to
7 do is let the board talk about what their interpretation
8 of this is, because when we talked about it as a committee
9 that was not our interpretation, but certainly that's not
10 to say that that's the last word on this. It's the
11 board's decision. It's the board's policy.

12 But it was not anticipated when this policy was
13 written that underwriting decisions, staff decisions on
14 whether or not the criteria met the criteria in the
15 application would be a part of this process, but certainly
16 that's open for discussion now and inclusion as the board
17 wishes it to be included. But that was not an anticipated
18 inclusion.

19 Tom, I'm looking directly at you. Tom Gouris,
20 director of underwriting. He's bowed his head.

21 But certainly that is open to the board's
22 wishes at this particular time.

23 MR. JONES: Mr. Conine.

24 MR. CONINE: Mr. Chairman, I think I'd like to
25 move to table this item. I don't have enough information

1 to make an intelligent decision here, and I don't like the
2 fact we've left the 4-percent credits out of this thing.
3 I'd ask staff to get us some time lines and come back to
4 us with some graphical time lines so we can better
5 understand the timing issues with respect to the 4
6 percent.

7 I think you've got the same timing issues with
8 respect to the 9 percent because of the July 31 deadline
9 in our QAP, because of the forward reservation limitations
10 that we normally max out on forward. There's a lot of
11 issues here that I think still need to be addressed, and
12 so I'd move to table this item.

13 MR. JONES: We have a motion.

14 MS. SAENZ: I second.

15 MR. JONES: We have a second to the motion.

16 Discussion of the motion?

17 (No response.)

18 MR. JONES: Hearing no discussion, are we ready
19 to vote?

20 (No response.)

21 MR. JONES: All in favor of the motion please
22 say aye.

23 (A chorus of ayes.)

24 MR. JONES: All opposed to the motion please
25 say nay.

1 (No response.)

2 MR. JONES: All abstentions.

3 DR. GRIFFIN: I abstain.

4 MR. JONES: We then move to Item 2(b), which is
5 approval of policy on concentration issues for multifamily
6 projects.

7 MS. STINER: Thank you, Mr. Chair. I'm going
8 to ask Cherno Njie, the manager of the Tax Credit program,
9 to come forward and make that presentation on behalf of
10 staff.

11 MR. NJIE: Good morning. For the record, my
12 name is Cherno Njie, manager for Tax Credit program.

13 Assuming all the concentration issues are
14 something that we deal regular with on the 9-percent tax
15 credits, the policy we are putting forward will encompass
16 not only the tax-credit program, the 9 percent, but as
17 well the 4-percent tax credits as well as the other
18 programs the department administers.

19 We recognize that in order to -- we recognize
20 the need to ensure that the location of multifamily
21 projects is done in a manner to enhance the viability of
22 those projects. Securing this means exercising control of
23 where these projects are and the number of units that are
24 put in particular markets. With this policy we hope that
25 developers will get a clear idea of what the department's

1 thinking is when we say concentration and when we apply it
2 in the tax-credit program as well as the other multifamily
3 programs.

4 Essentially the policy defines the market by
5 using the metropolitan statistical area or the boundaries
6 of a city or county. Secondly, in a market in excess of
7 half a million persons sub-markets will be further defined
8 to contain individuals between 50,000 to 500,000. In a
9 case where the market is in excess of half a million, the
10 city boundary should be used to delineate the sub-market
11 to contain again persons between 50,000 and half a million
12 persons.

13 In cases where the city as a sub-market is out
14 of this range, the department will use a three-mile radius
15 to define the market for that particular property. If the
16 three mile radius is either too large or too small to
17 contain persons between 50,000 and 500,000 in population,
18 we will adjust that range by one-mile increments until
19 we're able to define an area with a population of between
20 50,000 and 500,000.

21 Addressing concentration involves dealing with
22 a lot of variables. The policy is being proposed subject
23 to quality review and modification as we review all the
24 variables and as we become more experienced and get a
25 better handle on the impact of this policy.

1 Number one, the policy will allow the
2 department to limit the issuance of determination notices
3 for 4-percent tax credits, allocations for 9 percent, and
4 the award of department funds for new construction
5 projects of not more than 560 units -- comparable units,
6 that is, within any market or sub-market if that area is
7 defined as I have outlined.

8 MR. CONINE: Can I stop you right there?

9 MR. NJIE: Yes.

10 MR. CONINE: I think you read some words that
11 weren't in my particular paragraph. Could you reread that
12 one more time, because I --

13 MR. NJIE: I'm reading number one.

14 MR. CONINE: I know. Go right ahead.

15 MR. NJIE: The department may limit annually
16 the issuance of determination notices, the allocation of
17 tax credits, and the award of department funding --

18 MR. CONINE: Right.

19 MR. NJIE: -- for new construction projects to
20 not more than 560 comparable units within any market or
21 sub-market if the market area has been defined in
22 accordance with the population range described above.

23 MR. CONINE: I don't think that's what you said
24 the first time but that's what's written here, so go
25 ahead.

1 MR. NJIE: Or the department may limit annually
2 the issuance of determination notices, the allocation of
3 tax credit, and the award of deferment funding for new
4 construction projects to not more than 280 units within
5 any market or sub-market if the market area has been
6 defined in accordance with the population range described
7 above and includes existing or approved but not completed
8 comparable tax-credit projects totaling 500 units or more
9 that have maintained stabilized occupancies of at least 90
10 percent for less than a year.

11 Thirdly, in making a decision about the
12 issuance of a determination notice on the items one and
13 two above, the department shall act in accordance with the
14 order in which the bond reservations were issued subject
15 to a project's feasibility, a determination by the
16 department that the site is acceptable, and the project's
17 consistency with local needs.

18 Number four, the department will not issue a
19 determination notice, allocate tax credits, or award
20 department funds to any project that it determines would
21 have a significant negative impact on existing or approved
22 multifamily housing projects. In making this
23 determination, the department will take into account all
24 pertinent information, including the data and conclusions
25 of the market study.

1 The findings of the market study should result
2 in an appropriately calculated capture rate of not more
3 than 25 percent. In general the capture rate is
4 calculated as the sum of all proposed new units divided by
5 the total income eligible rent [inaudible] market or sub-
6 market as appropriate. Additional definitions of capture
7 rate and demise have been promulgated in the market study
8 and appraisal guide.

9 What we hope with this policy to do is to begin
10 the process of defining in more objective terms and
11 addressing forthrightly the issue of concentration.

12 I have a map here that I'd like to show the
13 board on the impact of this policy currently in Houston.
14 The area that we have defined in that square there is the
15 area in question in which a Trammell Crow property is
16 located. We have, as you know by the numbers 1412B, 248
17 units of family proposed there. There's another project,
18 1410, also 240 units, and then 1423B, the Trammell Crow
19 property, 240. We have another one that Mr. Washburn
20 talked about. He has withdrawn his application at 1421B.
21 Again, 220 units.

22 The existing tax-credit projects in that sub-
23 market are shown as the numbers indicate, 95120, 98008,
24 95149.

25 This is the issue that we are confronted with.

1 The bond lottery basically ensures that developers go
2 into specific markets, and they do that because they need
3 the equity from the tax credits to make the deals work.
4 This means choosing qualified census tracts. As has been
5 mentioned --

6 MS. BINGHAM: Keep the 130-percent credits.
7 Right?

8 MR. NJIE: That's correct. So you get 30
9 percent additional credits than you would normally qualify
10 for, so it's an issue that we hope to address with this
11 policy. And there is no better way to handle it now
12 because the bond lottery is entirely out of the control of
13 the department.

14 We're given these projects and they come to us,
15 and we have to rationalize the market.

16 MS. BINGHAM: Let me say something, Mr. Njie.
17 When you look at a situation like this where you have
18 these tax-credit deals within this bar right here, when
19 Trammell Crow talks about business decisions, when you
20 noted that project -- that '98 deal was sitting there, you
21 know that '95 deal was sitting there. You have to make a
22 business decision who you want to go there when you spend
23 your money. This is the concentration issue.

24 MR. NJIE: I am sympathetic to the idea of
25 letting the market decide. I'm a libertarian at heart, so

1 I'm sympathetic to Trammell Crow's sentiment.

2 However, these projects were chosen not because
3 of market reasons. They were bid in there because of
4 specific government incentives. If this was entirely a
5 market issue, we wouldn't be here. Accordingly, to
6 advance the view that we shouldn't use the lottery as the
7 basis for making decisions for a program --

8 MS. BINGHAM: The sole basis.

9 MR. NJIE: As one of the basis. It is not the
10 sole basis. What we're saying is we'll use it subject to
11 the site being acceptable, subject to the project being
12 financially feasible. The irony is that the lottery
13 process is a random process, and we're giving some numbers
14 and the order in which the lottery is set the projects
15 with the lower numbers get the reservations first, so
16 we're using that order subject to the site being
17 acceptable, subject to feasibility.

18 MS. BINGHAM: Subject to market conditions I
19 hope.

20 MR. NJIE: Well, that is part of feasibility.

21 MS. BINGHAM: Okay.

22 MR. JONES: Mr. Conine?

23 MR. CONINE: Cherno, we don't have any more
24 bond lottery issues. When's the next -- next October? Is
25 that when the next one is?

1 MR. NJIE: As far as the lottery, yes, in
2 October.

3 MR. CONINE: Although we'll have private
4 activity stuff going on year round.

5 MR. NJIE: There are other projects in the
6 pipeline that could also potentially raise concentration
7 issues. Sometimes these properties drop on their own or
8 the developers could choose not to proceed, so we may be
9 confronted with this again. That's why we're rushing
10 to --

11 MS. BINGHAM: Right. Because as some deals
12 fall out, other ones are going to pop out, and they're in
13 similar locations.

14 MS. STINER: May I just add a statement that --
15 Mr. Chairman?

16 MR. JONES: Yes.

17 MS. STINER: As happy as the State of Texas and
18 I guess every state in the nation is that Congress saw fit
19 to increase the private activity bond cap, an
20 unanticipated result of that is that we have all of these
21 deals now coming out of the lottery that wouldn't have
22 before, so we're going to see this problem again before
23 all of those funds or reserves are used up for this year.

24 MR. NJIE: That is correct. We have additional
25 monies coming from the increase in the bond cap, both in

1 the 9-percent and the 4-percent, so this is something that
2 is an enduring issue unless the bond lottery is fixed
3 somehow.

4 MR. CONINE: Is there a process -- I guess I'm
5 sympathetic to the public comment discussion where we
6 could get some public comment on this policy prior to
7 board action. Can we not take this policy into a public
8 comment period for 30 days and then bring it back to this
9 board at a future date?

10 MR. NJIE: Sure. That is entirely up to the
11 board.

12 MR. CONINE: Then, Mr. Chairman, I'd move to
13 table this item as well, and let's try to get some public
14 comment back and bring it back to the board after we've
15 received public comment so that we once again as board
16 members can fully understand some of the impact issues,
17 get some feedback from the development community as it
18 relates to both the lottery system as well as private
19 activity bonds.

20 It is an important issue because Congress has
21 increased the cap, and it's one that I would rather make
22 in an environment of being fully informed, having feedback
23 from the participants rather than where we are today.

24 MR. BREWER: Mr. Chair, should we really table
25 it or should we just make a motion on this to go -- to

1 direct staff to go to the public hearing on the issue.

2 MR. JONES: He can make whatever motion he
3 wants to, Mr. Brewer. I won't advise him on that either
4 way. I think he could do it either way.

5 MR. CONINE: I'll do both. I'll make a motion
6 to table it and direct staff to go to public comment and
7 come back to it. How's that?

8 MR. BREWER: I'll second that.

9 MR. CONINE: Thank you.

10 MR. JONES: We have a motion that's been made
11 and seconded.

12 MS. BINGHAM: But the motions conflict each
13 other, the tabling --

14 MR. JONES: I don't believe so, because all
15 he's doing is tabling the --

16 MS. BINGHAM: Board action.

17 MR. JONES: -- board action on the policy.

18 MS. BINGHAM: And sending it for public
19 comment.

20 MR. JONES: Right.

21 MS. BINGHAM: Okay. Thank you.

22 MR. JONES: It could certainly be removed from
23 the table at the next board meeting after the --

24 MS. BINGHAM: Thank you.

25 MR. JONES: Any further discussion, comments on

1 the motion?

2 (No response.)

3 MR. JONES: Are we ready to vote?

4 (No response.)

5 MR. JONES: I assume we are. All in favor of
6 the motion, please say aye.

7 (A chorus of ayes.)

8 MR. JONES: All opposed to the motion please
9 say nay.

10 (No response.)

11 MR. JONES: All abstentions?

12 DR. GRIFFIN: I'll abstain.

13 MR. JONES: The motion carries.

14 Item Number 2(c) on our agenda, approval of
15 Section 8 payment issues standard for housing choice
16 vouchers in accordance with 24 CFR Part 982.503.

17 MS. STINER: Thank you, Mr. Chair.

18 Mr. Burrell, are you still here? Will you come
19 forward and make this presentation on behalf of staff,
20 please?

21 MR. BURRELL: The TDHCA Section 8 program --
22 it's required by the US Department of Housing and Urban
23 Development to adopt a payment standard schedule that
24 estimates voucher payment standard amounts for each fair
25 market rent area in which it has jurisdiction.

1 MS. STINER: Excuse me, Mr. Chair.

2 David, may I interrupt -- Mr. Burrell. Has the
3 board gotten the new resolution here?

4 VOICE: Yes.

5 MS. STINER: Thank you.

6 Go ahead.

7 MR. BURRELL: In prior years the payment
8 standard has been handled by the executive director of
9 TDHCA. However, Ms. Stiner and HUD has decided that they
10 would like to elevate the payment standard to board level.

11 In the last several years HUD has been wanting
12 to get considerably more representation of the Section 8
13 program at the board level of which you all are probably
14 aware. TDHCA in operating as a public housing authority
15 in non-participating areas is required to have a payment
16 standard, but we can set that payment standard anywhere
17 from 90 percent of the HUD posted rate up to 110 percent.

18 In this particular case what we're recommending
19 to the board is that we be allowed to set our standard at
20 100 percent with one exception, that being that the
21 executive director be given the authority to go up to 100
22 percent when there are extenuating circumstances.

23 MR. BREWER: 110.

24 MR. BURRELL: 110 percent. Yes, sir.

25 There are a few cases when there being such

1 issue high utility bills which would require that the
2 executive director try to increase those rents up to the
3 110 percent which we're allowed by HUD.

4 If you'll look in the packet we gave you, there
5 is provided a list of payment standards in the 39 counties
6 in which we are currently participating, and that would
7 give you our rent for zero, one, two, three, and four
8 bedroom housing for Section 8 tenants.

9 We're recommending that you all do approve this
10 policy that we're --

11 MR. JONES: Discussion. Ms. Stiner?

12 MS. STINER: No. None from me.

13 MR. BETHEL: Mr. Chair --

14 MR. JONES: Yes, Mr. Bethel.

15 MR. BETHEL: -- I had an urge to follow Mr.
16 Conine's lead in tabling the whole agenda, but --

17 (General laughter.)

18 MS. BINGHAM: Well, I've got an idea about
19 that, but --

20 MR. BETHEL: But I think I'll make a motion to
21 pass Resolution 01-04 --

22 MS. BINGHAM: I will second that, Mr. Bethel.

23 MR. JONES: We have a motion --

24 MS. BINGHAM: Mr. Conine, I want to table that
25 too.

1 MR. JONES: We have a motion to approve
2 Resolution Number 01-04, and it has been seconded.
3 Discussion?

4 (No response.)

5 MR. JONES: Hearing no discussion, are we ready
6 to vote? I assume we are.

7 All in favor of Resolution Number 01-04 please
8 say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed say nay.

11 (No response.)

12 MR. JONES: All abstentions.

13 (No response.)

14 MR. JONES: Let the record reflect that Dr.
15 Bell Griffin is out of the room and did not vote.

16 Item 3 of the agenda is the presentation,
17 discussion, and possible approval of financial items, (a)
18 approval of recommendations relating to the issuance of
19 residential mortgage revenue and refunding bonds and other
20 related matters, Program 57.

21 Ms. Stiner.

22 MS. STINER: Thank you, Mr. Chair. The board
23 may note that this item has changed somewhat from the
24 first time we submitted these in our books when we were
25 anticipating meeting last month.

1 At that time we were anticipating the vote
2 going on into the market and with our intention to do
3 smaller issuance so as to allow us to take advantage of
4 what was going on in the market that we would be coming to
5 you with a different recommendation, but due to the timing
6 issues and the time that would have available to us to
7 take the issue to the market, we are recommending one
8 issue this year.

9 But just before Mr. Johnson, who is director of
10 bond finance, comes forward and makes his presentation, I
11 just want to say in terms of what we're considering here
12 at the agency is that when we do these issues in smaller
13 pieces, it gives us the flexibility of having a little bit
14 more control of the market. At this point in time I don't
15 know who has control of the market.

16 MS. BINGHAM: You'll never have that, but --

17 MS. STINER: So we're going to ask him to come
18 forward and make the presentation. I think you've got the
19 revised recommended board write-up. I think they went out
20 in your packages and just wanted to explain why we have
21 revised that.

22 Mr. Johnson, will you make the presentation,
23 please?

24 MR. JOHNSON: Sure.

25 Mr. Chairman, members, Ms. Stiner, we are here

1 to present to you our plans for issuing the next single
2 family mortgage revenue bond transaction. We are looking
3 at issuing all of the volume cap. Thanks to the increase,
4 our volume cap went from 83 million up to 108 million.
5 We're looking at refunding some commercial paper we have
6 outstanding and we're looking at refunding an old series
7 of bonds, the residential mortgage revenue bond Series 88A
8 and 89A, and we also added \$10 million. We may issue
9 bonds to fund down-payment assistance or we may come up
10 with some other ideas on how we could use that 10 million.

11 But the final deal size we estimate will range
12 from 150 million to 160 million.

13 The bonds will have below market rate
14 interest -- below market interest rates. We anticipate at
15 the time of pricing be about 90 to 100 basis points below
16 the market. Currently if we were in the market today,
17 that rate would be in the low sixes, and because of the
18 subsidy we're receiving from the refunding, it may be
19 about 6 percent. That's if we were in the market today.

20 We anticipate issuing premium bonds, another
21 source of down-payment assistance. Contrary to the
22 perception that we have a pot of gold in the bond
23 indentures, we don't, and as you will hear later, we're
24 running out of CMO funds which we've dedicated to down-
25 payment assistance, so we have to start coming up with

1 innovative and creative ways of raising down-payment
2 assistance.

3 So we're looking at possibly issuing bonds for
4 that or premium bonds to fund down-payment assistance.

5 MS. BINGHAM: I have one question.

6 MR. JOHNSON: Yes, ma'am.

7 MS. BINGHAM: I don't have a problem with this
8 item. Mr. Chairman, is there any reason it didn't come
9 through committee process?

10 MR. JONES: No. We just have had -- we didn't
11 have the committee meetings this month.

12 MS. BINGHAM: Okay. Thank you.

13 MR. JOHNSON: And we anticipate pricing in
14 September and closing in about 30 days after that. That's
15 basically the transaction as we see it right now.

16 This is preliminary. We'll come back to you
17 approximately in July or August for your final approval.

18 MR. BETHEL: Mr. Chairman, I make a motion we
19 pass the preliminary recommendations of staff for Program
20 57.

21 MS. BINGHAM: I second.

22 MR. JONES: Any further discussion?

23 (No response.)

24 MR. JONES: Hearing none, are we ready to vote?
25 I assume we are.

1 All in favor of the motion please say aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed to the motion please
4 say nay.

5 (No response.)

6 MR. JONES: The record should reflect that Dr.
7 Bell Griffin is out of the room and not voting.

8 Item 3(b), Ms. Stiner.

9 MS. STINER: Mr. Johnson will make the
10 recommendation for staff and the underwriting team on 57.

11 MR. JOHNSON: In conjunction with the issuance
12 of the program I just described, we would like to select
13 the underwriting team at this time to start the cash flow
14 documentation structuring and preparation. As I
15 mentioned, the refunding is the old Series 88 and 89 bonds
16 haven't been refunded up to this point because they
17 present some unique tax and structuring challenges, and
18 one firm -- or a firm has brought to us some interesting
19 recommendations.

20 And if you take a look at the next page, you'll
21 see that firm is Salomon SmithBarney, and so we would like
22 to recommend them -- that's one of the reasons we'd like
23 to recommend them as senior manager, and we're
24 recommending Bear Stearns as co-senior, First Southwest
25 Company as co-manager, George K. Baum as co-manager, M.R.

1 Beal and Company as co-manager, Morgan Keegan and Company
2 as co-manager, and Siebert Brandford as co-manager.

3 If you take a look at the fee structure, it's
4 identical to the prior three deals we've done since '99,
5 and I mentioned Salomon SmithBarney. Some of their
6 attributes are they have about \$2 billion in capital and
7 nine housing bankers who do nothing but housing, an
8 extensive distribution network. And they've been in the
9 senior pool for five years and I've never seen them
10 [indiscernible] a deal, so with those qualifications I
11 thought it was time for them to --

12 MS. BINGHAM: And we are rotating where
13 possible?

14 MR. JOHNSON: I'm trying to rotate where
15 possible.

16 MS. BINGHAM: The other question I have is can
17 you make this clear that we do have Salomon SmithBarney as
18 your senior manager; that is, senior book running manager?

19 MR. JOHNSON: Yes, ma'am.

20 MS. BINGHAM: Right. Thank you.

21 MR. JOHNSON: And that's my presentation.

22 MS. BINGHAM: I move for approval, Mr.
23 Chairman.

24 MR. BETHEL: Second.

25 MR. JONES: We have a motion and a second.

1 Further discussion of the motion?

2 (No response.)

3 MR. JONES: Hearing none, are we ready to vote?

4 (No response.)

5 MR. JONES: I assume we are. All in favor of
6 the motion please say aye.

7 (A chorus of ayes.)

8 MR. JONES: All opposed to the notion please
9 say nay.

10 (No response.)

11 MR. JONES: All abstentions?

12 DR. GRIFFIN: I abstain.

13 MR. JONES: The motion carries.

14 Item 3(c), Ms. Stiner.

15 MS. STINER: Mr. Johnson, will you make the
16 presentation, please?

17 MR. JOHNSON: Yes, ma'am. Fasten your seat
18 belts for this one.

19 We have an old issue CHMRB '92 A, B, and C
20 deals -- this deal was executed in 1992. It's a very
21 unique transaction. At that time the flavor of the month
22 maybe was inverse floaters, and everybody was doing
23 inverse floaters so we did it also. It's a good deal.
24 We're not here to second guess why they did it and what
25 not, but it was a good deal. They've had considerable

1 basis point savings, but on the other side of that was a
2 cost and that cost was there are no optional redemption
3 privileges and if we sell the collateral -- the Ginnie Mae
4 collateral, we cannot use those sale proceeds to call the
5 bonds. It's specifically stated in the indenture.

6 So the challenge was how do we preserve the
7 volume cap and comply with those two requirements? A
8 particular firm brought to us an idea that we could take
9 the existing collateral, sell that collateral, use those
10 proceeds to buy taxable collateral and place that back in
11 the structure so you'd still have the bonds outstanding.
12 You have new collateral paying down the bonds, but we
13 could take that collateral we sold and recycle that as
14 long as the bonds are outstanding. So that's the idea.

15 There are two major risks. One risk --

16 MS. BINGHAM: You're not giving away any trade
17 secrets, are you? You're not talking too much, are you?

18 MR. JOHNSON: I just want everyone to be aware
19 of what we're doing.

20 MR. BETHEL: Under the recommendation, it says
21 that we authorize staff to engage George K. Baum to
22 further research --

23 MR. JOHNSON: Yes, sir.

24 MR. BETHEL: We're not authorizing any --

25 MR. JOHNSON: You're not authorizing the

1 execution of the transaction.

2 MS. BINGHAM: Of the sale. You're authorizing
3 them to go over the structure.

4 MR. JOHNSON: To do more research in
5 structuring and cash flow analysis.

6 MS. BINGHAM: I think there's a problem when
7 you say research -- you said model the sale and
8 substitution, but you really don't intend for them to sell
9 anything --

10 MR. JOHNSON: No, ma'am.

11 MS. BINGHAM: -- just to come up with the
12 format?

13 MR. BETHEL: Okay. I make the motion then that
14 we authorize them --

15 MS. BINGHAM: I second.

16 MR. JONES: We have a motion made. It's been
17 seconded. Further discussion?

18 (No response.)

19 MR. JONES: Hearing none, are we ready to vote?
20 I assume we are.

21 All in favor of the motion please say aye.

22 (A chorus of ayes.)

23 MR. JONES: All opposed to the motion, nay.

24 (No response.)

25 MR. JONES: All abstentions.

1 DR. GRIFFIN: I abstain.

2 MR. JONES: The motion carries.

3 Item 3(d).

4 MS. STINER: Mr. Johnson, since you're still at
5 the podium you may take this as well. Are you giving away
6 trade secrets?

7 MR. JOHNSON: We have I guess an underwriting
8 pool. We have investment banks set we draw from to do the
9 transactions, issue the bonds on the single family side.
10 This pool has been in existence since 1996. In other
11 words, we have not gone out for or issued an RFP since
12 1996 to select firms.

13 We have 14 firms currently. Of the 14 firms
14 seven actively visit the department, submit ideas, and
15 call on the department to keep us abreast of what's
16 happening in the market. The other seven -- I've been
17 here 19 months and I haven't heard from them or anything
18 like that, so I think it's about time that we reconsider
19 our pool. And I'm coming to you to ask that you authorize
20 us to issue an RFP to select a pool of underwriters.

21 MR. BETHEL: I make that motion.

22 MR. BREWER: I second.

23 MR. JONES: The motion's been made and
24 seconded. Further discussion?

25 (No response.)

1 MR. JONES: Hearing none, are we ready to vote?

2 All in favor of the motion please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed to the motion, nay.

5 (No response.)

6 MR. JONES: All abstentions.

7 (No response.)

8 MR. JONES: Are there any abstentions?

9 (No response.)

10 MR. JONES: Dr. Griffin, are you voting?

11 DR. GRIFFIN: Yes.

12 MR. JONES: Is there a motion to withdraw that
13 vote by the board?

14 MR. DAROSS: So moved.

15 MR. JONES: Is there a second?

16 MR. CONINE: Second.

17 MR. JONES: All in favor of that -- any
18 discussion on that motion?

19 MS. BINGHAM: Which motion was that?

20 MR. JONES: It was a motion to withdraw the
21 prior vote.

22 VOICE: A proposal, a policy vote.

23 MR. JONES: All in favor of that motion please
24 say aye.

25 (A chorus of ayes.)

1 MR. JONES: All opposed, nay.

2 (No response.)

3 MR. JONES: At this time the chair would
4 entertain a motion to adjourn the meeting.

5 MR. DAROSS: So moved.

6 MR. JONES: Second?

7 MS. SAENZ: Second.

8 MR. JONES: All in favor of the motion please
9 say aye.

10 (A chorus of ayes.)

11 MR. JONES: Thank you.

12 (Whereupon, a short recess was taken.)

13 MR. JONES: I will call the meeting back to
14 order.

15 The chairman would entertain a motion once
16 again with regard to Item 3(d). Is there a motion that it
17 be approved?

18 MR. DAROSS: So moved.

19 MR. CONINE: Second.

20 MR. JONES: We have a motion made and seconded.
21 All in favor of the motion please say aye.

22 (A chorus of ayes.)

23 MR. JONES: All opposed to the motion please
24 say nay.

25 (No response.)

1 MR. JONES: All abstentions.

2 DR. GRIFFIN: I abstain with the record showing
3 that I disagree with the Attorney General's Office that
4 this is a policy decision which I should not be banned
5 from. However, in the best interest of the citizens of
6 Texas, I won't stop the meeting today.

7 MR. JONES: The motion carries.

8 Item 3(f).

9 MS. STINER: We have 3(e).

10 MR. JONES: Excuse me. Item 3(e).

11 MS. STINER: 3(e).

12 MR. JONES: If I could for the record I'd like
13 to read this letter. It's dated today's date to the
14 Chairman, Texas Department of Housing and Community
15 Affairs.

16 "Dear Mr. Jones, due to the concern regarding
17 the impossible conflicts of interest, I wish to recuse
18 myself on the vote of the approval of the extension of the
19 origination period for Program 55 because of our firm's
20 representation of residential mortgage lenders. Thank you
21 for your consideration, Marsha L. Williams."

22 For the record, please note that Ms. Williams
23 has left the room.

24 Ms. Stiner?

25 MS. STINER: Thank you, Mr. Chair.

1 Mr. Johnson?

2 MR. JOHNSON: In December of '99 we issued a
3 series of bonds, the 99Bs and Cs. The origination period
4 or the time in which we make mortgages with that money
5 will end on May 21. We have approximately \$9 million
6 outstanding in that acquisition account, and staff, based
7 on conversations with single family lending and bond
8 finance executives feels that we can originate the funds,
9 so we would like to extend the origination period for up
10 to one year.

11 The resolutions you have now may be modified to
12 state up to one year. Right now it states one year.

13 MS. STINER: Mr. Chairman.

14 MR. JONES: Yes, ma'am.

15 MS. STINER: I'm sorry. Which one did we just
16 get passed out? Is this one the new resolution?

17 MR. JOHNSON: That's not the new resolution.

18 MS. STINER: Thank you.

19 MR. BREWER: This is (e). Right?

20 MR. JOHNSON: (e). Yes.

21 And another reason we believe we can originate
22 the funds is that the funds will be opened up to the first
23 come, first served system as opposed to a lender
24 participation allocation system.

25 MR. CONINE: Move for approval.

1 MR. BREWER: Second.

2 MR. JONES: We have a motion made and seconded
3 that we approve the extension of origination period for
4 Program 55. Further discussion?

5 (No response.)

6 MR. JONES: Hearing none, are we ready to vote?

7 I assume we are.

8 All in favor of the motion please say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed to the motion please
11 say nay.

12 (No response.)

13 MR. JONES: All abstentions.

14 DR. GRIFFIN: I abstain.

15 MR. JONES: The motion carries.

16 Item 3(f).

17 MR. JOHNSON: Thank you very much.

18 MS. STINER: Thank you, Mr. Johnson.

19 Mr. Chair, thank you.

20 I'll ask William -- Bill Dally to come forward,
21 CFO of the agency, and make the presentation on the CMO
22 transfer of unencumbered fund balances to the Housing
23 Trust Fund.

24 MR. DALLY: Good afternoon, chair and members,
25 Ms. Stiner.

1 As part of our legislation each year, an
2 unencumbered fund balance report is prepared by our CPA.
3 This year that report was done and it was determined that
4 we needed to make a transfer of unencumbered fund balance
5 of \$2.1 million, so this is just bringing that action
6 before you for your approval.

7 Are there any questions?

8 MR. CONINE: Move for approval.

9 MR. JONES: The motion's been made --

10 MR. DAROSS: Second.

11 MR. JONES: The motion's been made and
12 seconded. Further discussion?

13 (No response.)

14 MR. JONES: Hearing none, are we ready to vote?

15 I assume we are.

16 All in favor of the motion please say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed to the motion please
19 say nay.

20 (No response.)

21 MR. JONES: All abstentions.

22 DR. GRIFFIN: I abstain.

23 MR. JONES: The motion carries.

24 MR. DALLY: Thank you.

25 MR. JONES: Item 3(g), Ms. Stiner.

1 MS. STINER: Pam Morris, will you come forward
2 and make the presentation, please?

3 MS. MORRIS: Good afternoon. I'm Pam Morris,
4 director of housing finance programs.

5 I wanted to just ask for your approval to use
6 the last remaining balance that we have in the CMO funds
7 that we had set aside for down-payment assistance for the
8 single family mortgage revenue bond program. The million
9 dollars that you approved back in November has almost run
10 out in commitments. Not in funding, but in commitments to
11 borrowers, so we were trying to look ahead and make sure
12 that we don't stop the program, because it is very
13 important that we continue to offer down-payment
14 assistance to make sure that the program keeps going
15 forward.

16 MR. BETHEL: I so move.

17 MR. CONINE: Second.

18 MR. JONES: The motion's been made and
19 seconded. Any further discussion?

20 (No response.)

21 MR. JONES: Hearing no discussion, are we ready
22 to vote? I assume we are.

23 All in favor of the motion please say aye.

24 (A chorus of ayes.)

25 MR. JONES: All opposed to the motion please

1 say nay.

2 (No response.)

3 MR. JONES: All abstentions.

4 DR. GRIFFIN: I abstain.

5 MR. JONES: The motion carries.

6 Item 3(h), Ms. Stiner.

7 MS. STINER: Mr. Onion, would you come forward,
8 please?

9 MR. ONION: For the record, my name is Robert
10 Onion, director of multifamily. I'm here to recommend
11 approval to transfer \$495,000, which represents private
12 activity as well as bond profits, 501(c)(3) fees to the
13 Housing Trust Fund department.

14 MR. BETHEL: I move that we transfer \$495,000
15 to the Housing Trust Fund.

16 MR. BREWER: I second.

17 MR. JONES: The motion's been made and
18 seconded. Any further discussion?

19 (No response.)

20 MR. JONES: Hearing none, are we ready to vote?
21 I assume we are.

22 All in favor of the motion please say aye.

23 (A chorus of ayes.)

24 MR. JONES: All opposed, nay.

25 (No response.)

1 MR. JONES: All abstentions.

2 DR. GRIFFIN: I abstain.

3 MR. JONES: Motion carries.

4 3(i), Ms. Stiner.

5 MS. STINER: Yes, sir.

6 Mr. Onion, you're on a roll, so will you
7 continue please?

8 MR. ONION: I'm here to recommend the approval
9 of the memorandum of understanding between the US
10 Department of Housing and Urban Affairs and the Texas
11 Department of Housing and Community Affairs to provide for
12 standardized documents where HUD would have the first
13 lien, the department either under Home or Housing Trust
14 Funds would have a second lien, thereby allowing a
15 transition for the combination of finance between the two
16 parties.

17 MR. DAROSS: So moved.

18 MR. BREWER: Second.

19 MR. JONES: The motion's been made and
20 seconded. Any further discussion?

21 (No response.)

22 MR. JONES: Hearing none, are we ready to vote?
23 I assume we are.

24 All in favor of the motion please say aye.

25 (A chorus of ayes.)

1 MR. JONES: All opposed, nay.

2 (No response.)

3 MR. JONES: All abstentions.

4 DR. GRIFFIN: I abstain.

5 MR. JONES: Ms. Stiner, I think we're at 3(j).

6 MS. STINER: 3(j). Michael Lyttle, director of
7 communications and government relations director as well,
8 will you make the presentation, please?

9 MR. LYTTLE: Good afternoon, Mr. Chair,
10 members, Ms. Stiner.

11 In the last legislative session the legislature
12 directed the agency to put \$30 million of its housing
13 funds towards families and individuals that were in the
14 zero to 30-percent of median family income. This is
15 called Rider 3 and it was attached to our appropriations.

16 This rider has been revised during this current
17 legislative session. It is being -- the revised rider is
18 in your packet in the board book, and then you'll see one
19 of the most significant changes is that specific family
20 incomes as well as persons in the family are listed in
21 this rider. In addition, the rider also includes for each
22 additional person adding \$1,500 to the maximum annual
23 income.

24 I do want to point out that this particular
25 rider is not in the committee substitute for Senate Bill 1

1 which will be heard tomorrow on the senate floor.

2 However, it is in House Bill 1, which has been passed out
3 of the House Appropriations Committee and will be before
4 the full House at some point in the near future. So the
5 rider is -- no doubt will be worked out in conference
6 committee to one degree or another.

7 MR. BREWER: Mr. Chair, I just have one
8 question. How do these figures work with HUD? In other
9 words, would you use like one person 13,000. Are we going
10 to get into any differences because HUD's building a lot
11 of places where we do and getting -- looking at same
12 incomes. Do you know if these figures are pretty much
13 what HUD has for one person, two persons and things like
14 that, or doesn't it matter?

15 MR. LYTTLE: Well, I would say it doesn't
16 matter. I have a limited understanding of the correlation
17 with the HUD figures, and to be honest, there are some
18 discrepancies. In sharing some information with Suzanne
19 Phillips, our compliance director, there are issues with
20 compliance and how tracking these figures will add a whole
21 new dimension to what we're doing with this particular
22 rider.

23 MR. BREWER: Mr. Chair, the only concern I have
24 really is that -- is on the dollar amounts and everything
25 as how they reflect against what HUD does with theirs,

1 because we don't want to be more restrictive or anything
2 in what we -- I wouldn't think at the state level on the
3 people to be eligible is my only concern.

4 MR. CONINE: Mr. Chair, I'd also reflect those
5 concerns I guess. I'd be curious to see about -- I guess
6 we have our highest income county, whichever that is in
7 the state of Texas median income 30 percent of that
8 number. Is that -- where does that fall in relation to
9 these absolute numbers, and then of course the flip side,
10 our lowest income county.

11 I'm not so sure that actual numbers aren't a
12 good idea though, because it helps in somewhat dispersion
13 activities. It gets rid of the 30 percent and gets to
14 actual income. I would hate to trap ourselves into the
15 specific incomes without some sort of indexing though,
16 because we have a session every two years, thankfully, and
17 we want to make sure that these numbers progress if we
18 establish the numbers, so indexing I think would be in
19 order.

20 Can we get some more input from you or anyone
21 else related to maximum -- 30 percent of our maximum
22 income county versus our minimum income county and let me
23 know where these numbers fall?

24 MR. LYTTLE: Certainly. I can report back to
25 the board on that. In fact, most likely this week I'll

1 get with Sarah Dale from our Housing Resource Center. She
2 was working with myself and the committee on this.

3 MR. CONINE: Is she here?

4 MR. JONES: Sarah.

5 MR. CONINE: I'll be glad to listen now. I
6 don't want to table another one.

7 MS. DALE: For the record, Sarah Dale,
8 [indiscernible] director of strategic planning and Housing
9 Resource Center.

10 Off the top of my head, because I don't have
11 all my notes regarding this down here, the 13,000 is above
12 the highest metropolitan 30 percent, so that one was above
13 the Dallas --

14 MR. CONINE: Okay.

15 MS. DALE: -- figure, so there's no problem
16 with that.

17 The others correlate pretty much along the
18 lines of the median income for the state, but they are a
19 little bit lower for some of the metro areas when you
20 start doing the increments. The reason that this rider
21 was changed is we understand it is because there were
22 concerns that the rural areas were being left out, so
23 it -- I guess really these figures were determined more
24 based upon the rural figures as opposed to the metro.

25 MR. BETHEL: Thirty percent on one person in

1 your lower rural counties is about 8,500 or 9,000, so I
2 think it's what it -- I think this was recommended by
3 Chairman Carter, wasn't it?

4 MS. DALE: Yes.

5 MR. BETHEL: What he's trying to do is raise
6 the lower limit in keeping the other median income at
7 about the same of 30 percent.

8 MS. DALE: Exactly.

9 MR. CONINE: So in effect we would get
10 credit -- the agency would get credit for doing a deal for
11 a \$13,000 income individual in rural counties --

12 MS. DALE: Right.

13 MR. CONINE: -- as opposed to the 30-percent
14 number, so we'd meet this particular rider.

15 MS. DALE: Right.

16 MR. CONINE: Can you address my concerns about
17 indexing or can we add that language?

18 MS. DALE: Well, you have the same concerns
19 that we have that with two years in between the
20 legislative session, especially with the fact that these
21 are based upon 2000 median income -- the 2001 have not
22 come out. There have been changes in the way the incomes
23 have been determined so it's entirely possible that the
24 median incomes could jump up significantly and this could
25 fall well under the 30 percent.

1 And these are concerns we've expressed to
2 Chairman Carter and I suppose will be worked out in
3 committee.

4 MR. CONINE: Can we -- can someone better than
5 me come up with some indexing language that we can add to
6 this before we move it on from a board standpoint?

7 MS. DALE: Certainly. And I think the only
8 thing we can do is give that to the committee, because we
9 have nothing to do with this process. It's purely
10 legislative, and we've just been asked to bring it before
11 the board as an FYI.

12 MR. CONINE: I'll make a motion to approve
13 subject to some indexing language.

14 MR. JONES: What if we did this -- and this is
15 just a suggestion before any motions are made -- what if
16 we let the staff proposal slide and circulate it among the
17 board members and let board members then have the
18 opportunity to give comments to the staff based upon that,
19 so that as much input as possible could be given back to
20 the committee, because I think she makes a real good
21 point. We're just supposed to review it. I don't think
22 us approving anything is --

23 MS. BINGHAM: Yes. It's the legislative
24 process.

25 MR. JONES: -- and I would say this. We might

1 let the staff take a first stab at it. I'm sure they will
2 include whatever comments --

3 MS. BINGHAM: When does the committee meet
4 again?

5 MS. DALE: Tomorrow.

6 MS. BINGHAM: Mr. Conine, since you -- don't
7 you spend a lot of time in Austin? Can't you bring our
8 concerns on your own time and on your own money to the
9 committee's attention?

10 MR. CONINE: I was just under the impression
11 though that we sent over our 2001 and 2003 legislative
12 appropriations request, and I would assume that this
13 language is going to be on the document we send over
14 there, and I wouldn't want it to say something that I
15 didn't want the board to agree upon.

16 MS. BINGHAM: I understand, but what I'm saying
17 the process is pretty much out of the staff's control.
18 It's a legislative issue, but you as a board member on
19 your own time without using agency money can attend the
20 committee meeting and talk about why the indexing language
21 is required, because you know how they're going to treat
22 the staff when they get there.

23 They're not going to listen. We're not going
24 to have them interrupt them to give them that information.
25 It's just a waste of time.

1 MR. BREWER: Well, I have a question, Mr.
2 Chairman. It says on here this is a presentation,
3 discussion, and possible approval of revision to Rider 3
4 to be included in the 2002-2003 legislative request.

5 MS. BINGHAM: But that's just like an order for
6 the legislature.

7 MR. BREWER: So why can't he make the motion
8 and just suggest the index?

9 MR. JONES: He certainly can. I didn't mean to
10 suggest you couldn't, Mr. Brewer.

11 MR. BREWER: Yes. And with the stipulation of
12 the indexing if the board agrees with that.

13 MS. BINGHAM: Mr. Brewer, I agree with you, but
14 the way it's read it's like an order. You bring it back
15 to me. And he's saying bring it back with -- we'll send
16 it back to you with these stipulations. The board could
17 vote for that and then he go over there and explain why as
18 opposed to the staff getting shot up, because that's
19 exactly what's going to happen.

20 MR. CONINE: I'll be glad to go and express my
21 opinion over there, Ms. Bingham, but I think it's like
22 Christmas -- Santa Claus. If it isn't on the list, you
23 won't get it delivered there, and I want it to be on the
24 list. That's all.

25 MS. BINGHAM: Okay. So, Mr. Brewer, you were

1 saying just -- Mr. Chairman's saying something different,
2 but you're saying we should vote the way Mr. Conine is
3 suggesting it?

4 MR. BREWER: Yes. I think we ought to vote on
5 his suggestion and then that just be given -- they can
6 either listen to what we're suggesting or do what they
7 want to do.

8 MR. LYTTLE: I think what we can do is
9 certainly share the new language with not only Chairman
10 Carter but with members of the Appropriations Committee,
11 because it's certainly not finished yet.

12 MS. BINGHAM: But what I'm saying is they
13 dictate to you what they want and say go approve it and
14 bring it back to me, so we're saying we'll do that but
15 with this language added --

16 MR. CONINE: Thank you. I'll repeat my motion.
17 I'll make a motion for approval subject to some indexing
18 language added to this particular --

19 MS. BINGHAM: I second your motion.

20 MR. JONES: The motion's been made and
21 seconded. Any further discussion?

22 (No response.)

23 MR. JONES: Hearing none, are we ready to vote?

24 (No response.)

25 MR. JONES: All in favor of the motion please

1 say aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed, nay.

4 (No response.)

5 MR. JONES: All abstentions.

6 DR. GRIFFIN: I abstain.

7 MR. JONES: The motion carries.

8 MS. STINER: Mr. Chairman, I guess I should
9 have introduced this as a discussion, so am I
10 understanding that the staff will work on some indexing
11 language to include in that on behalf of the board?

12 MR. BREWER: I think that's all we've got to
13 say.

14 MS. STINER: Okay. So all you want to say is
15 you approved it based on some indexing language and let
16 that be worked out in the committee?

17 MR. CONINE: Take the specific income limits,
18 put a CPI index on it from whatever year that they're
19 operating off of.

20 MS. BINGHAM: And Chairman Carter's meeting is
21 tomorrow, so you have to do that tonight.

22 MR. JONES: I suggest that we take a five
23 minute break. Thank you.

24 (Whereupon, a short recess was taken.)

25 MR. JONES: Item Number 4, Ms. Bingham.

1 MS. BINGHAM: Item 4 is Presentation,
2 discussion, and possible approval of Low Income Tax Credit
3 Program items. Item (a) is the approval of request for
4 extension of the deadline for commencement of construction
5 of Project 0005, Heatherwilde Park Retirement Apartments;
6 for Project Number 99173, Huffman Hollow Apartments; and
7 Project Number 0000-2 Lakeside Village.

8 Mr. Njie, are you covering those items? Before
9 you go into those, are any of these projects covered under
10 the tax credit -- the QAP that was just approved?

11 MR. NJIE: No. These were 2000 and I believe
12 '99 applications.

13 MS. BINGHAM: '99 and --

14 MR. NJIE: Two of them are 2000. One is a '99
15 project. Two of them were allocated in 2000 and one in
16 1999.

17 MS. BINGHAM: So the QAP that we have now
18 covers 2000 --

19 MR. NJIE: 2000 projects.

20 MS. BINGHAM: Do you have a 2000 project on
21 this list?

22 MR. NJIE: No.

23 MS. BINGHAM: Lakeside is not a 2000?

24 MR. NJIE: Lakeside is a 2000. I don't have a
25 2001.

1 MS. BINGHAM: Lakeside is a 2000?

2 MR. NJIE: That's correct. So is Heatherwilde.

3 MS. BINGHAM: So is Heatherwilde?

4 MR. NJIE: That's correct.

5 MS. BINGHAM: Okay. I have one question before
6 you -- okay. Could you go on, please.

7 MR. NJIE: Pursuant to the QAP, there are
8 certain time lines for developers to meet, and this
9 includes the commencement of construction. We have been
10 petitioned by these three applicants to extend the
11 deadline for doing so because of a variety of reasons
12 indicated and the fact that construction for the
13 Heatherwilde project, which is in Pflugerville.

14 They are development issues that the project is
15 working through with the City of Pflugerville and some
16 unanticipated costs. They're also going to reapply in the
17 2001 to close the funding gap. They are requesting an
18 extension until August 31 to do the necessary post
19 foundation activities for that project.

20 The second property is in Lakeside; Lakeside
21 Village, Number 00002. They have commenced construction.

22 They needed to be at the post foundation stage, and
23 because of rain delays, they are asking for an extension
24 to be able to do that by May 15.

25 The third project is Huffman Hollow. Again,

1 that project has experienced rain delays, and the
2 developer is asking for an extension to be able to meet
3 the deadline, and we're recommending a time line of May 15
4 to comply. Those are the three projects in question.

5 MR. DAROSS: Mr. Njie, I have a question on the
6 request by the Encinas Group. Is there other
7 documentation that was provided to staff besides the
8 letter here from Mr. Encinas dated March 19? The only
9 thing that's in our board pack is one letter --

10 MR. NJIE: (Perusing documents.) That is
11 correct. That is the --

12 MR. DAROSS: -- held up by weather, et cetera,
13 and et cetera could mean I had to take a trip to the
14 Caymans. I'd like to think there's more documentation
15 that's been provided than this to justify the request for
16 extension.

17 MR. NJIE: No. This is the only request
18 towards the payment of the fee. I have talked to the
19 general contractor and the syndicator on this project and
20 they have started. They just needed to be at a post
21 foundation state, meaning start framing the property.

22 MR. CONINE: We do have confirmation that the
23 loan has closed on the project?

24 MR. NJIE: That's correct.

25 MR. CONINE: Mr. Chairman, I'd like to take

1 these I guess separately as a vote. I know we've lumped
2 them all together here.

3 On the first one, Cherno, I've got some
4 questions on that. This is back on Heatherwilde. Okay?

5 MR. NJIE: That's correct.

6 MR. CONINE: This is a forward commitment from
7 the 2000 round or the '99 round?

8 MR. NJIE: It's a forward commitment from the
9 '99, so the allocation was made in 2000.

10 MR. CONINE: Right. So that means this
11 project's been teed up since 1999 and they're still having
12 problems getting the thing put together and done. Is that
13 correct?

14 MR. NJIE: No. The allocation was made in
15 March of 2000, so March 2000 to March 2001. It's been a
16 year. [indiscernible] of allocations, meaning the
17 expenditure of the 10 percent started in -- the deadline
18 was March 31.

19 MR. CONINE: There has been no loan closed on
20 this one. Correct?

21 MR. NJIE: The loan closings -- I'm not sure
22 the loan has closed yet.

23 MR. CONINE: Because the way it reads, because
24 of equity problems and everything else, I don't think it
25 has. They haven't even gotten their building permit yet

1 because they're still working with the city on various
2 issues.

3 MR. NJIE: The developer is on the -- I would
4 call him to talk to us about that.

5 MR. CONINE: Say that again.

6 MR. NJIE: I said the developer is in the
7 audience. I will call him to talk to us about that.

8 MR. CONINE: Okay.

9 MR. SALING: Good afternoon. My name is David
10 Saling with Campbell Hogue and Associates, and we're the
11 developers of the Heatherwilde Park Retirement Homes in
12 Pflugerville, Texas.

13 Board member, you had a question?

14 MR. CONINE: Well, my question -- that the
15 loan's not closed yet, syndication's not done yet, you
16 have a reservation of credits and you're still trying to
17 negotiate with the city for various and sundry reasons.

18 MR. SALING: We have closed the loan. That was
19 done in October with Key Housing Corporation.

20 MR. CONINE: You have closed the loan?

21 MR. SALING: Yes, sir.

22 MR. CONINE: And you got that done without a
23 building permit or all the approvals necessary?

24 MR. SALING: Yes, sir.

25 MR. CONINE: I guess my feeling is on this one

1 that there's an admitted shortfall here in total dollars
2 to do the project, and what we're doing here is extending
3 the old tax credits that you got and we're saying that
4 we're coming on this coming round to fill the gap. And
5 you don't know whether you're going to get the gap filled,
6 and you probably won't do a whole lot of construction
7 between now and then because you don't know whether you're
8 going to get the gap filled.

9 It just seems to me to be a little bit loose
10 relative to something that started in 1999 or applied for
11 in 1999, and I guess I want to know the ramifications if
12 we reject this request. What are the ramifications to
13 you?

14 MR. SALING: As Mr. Njie stated, we didn't get
15 the allocation for the credits until March of 2000. At
16 that point, we closed on the property. We had it under
17 contract through the application cycle in 1999 and carried
18 it, paying monthly extension payments until we actually
19 did get the reservation letter.

20 MS. BINGHAM: The tax credits didn't become
21 lawful until -- even though the board voted in '99 the tax
22 credits did not -- you couldn't get the tax credits by
23 law until 2000?

24 MR. SALING: That's correct.

25 MR. CONINE: Right. Because of the forward

1 reservations. I got it.

2 MS. BINGHAM: The forward commitment.

3 MR. CONINE: I got that.

4 MR. SALING: At that point in time we had done
5 due diligence in '99 with the City of Pflugerville on
6 building codes. After we had gotten the credits and
7 closed the property and began design development stage of
8 the product to get construction drawings, the City of
9 Pflugerville changed a building ordinance, if you will,
10 superseding their existing fire code, and basically they
11 are now requiring that single-story duplex buildings have
12 a fire protection system, including sprinklers and
13 monitored alarm systems.

14 We are going before the board of adjustment to
15 request a variance on that and expect to have an answer by
16 the end of April. We also anticipate building permits
17 being able to be pulled some time in April as well, of
18 this year.

19 MR. CONINE: And we've met -- is there the 10-
20 percent test requirement that's been met so far --

21 MR. SALING: Yes, sir.

22 MR. CONINE: -- or is that not applicable?

23 MR. NJIE: Yes. That was met in March.

24 MR. CONINE: Last March?

25 MR. NJIE: That's correct.

1 MS. BINGHAM: Right.

2 MR. CONINE: Land purchase and whatever else?

3 MR. NJIE: Land and material.

4 MR. SALING: Yes, sir.

5 MR. CONINE: No further questions.

6 MS. BINGHAM: I can't make a motion, can I?

7 MR. JONES: You sure can.

8 MS. BINGHAM: I move that we approve staff
9 recommendation for the extensions.

10 MR. BREWER: I second.

11 MR. JONES: The motion's been made and
12 seconded. Further discussion?

13 (No response.)

14 MR. JONES: Hearing no further discussion, are
15 we ready to vote?

16 MR. BETHEL: We're on one -- just that one
17 project?

18 MR. JONES: Just Heatherwilde Retirement
19 Apartments is the motion. Is that right, Ms. Bingham?

20 MS. BINGHAM: Right.

21 MR. JONES: That motion has been made and
22 seconded. Further discussion?

23 (No response.)

24 MR. JONES: Hearing none, I assume we're ready
25 to vote.

1 All in favor of the motion please say aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed to the motion please
4 say nay.

5 (No response.)

6 MR. JONES: Abstentions.

7 DR. GRIFFIN: I abstain.

8 MR. JONES: Thank you. The motion carries.

9 MS. BINGHAM: Mr. Njie, will you present the
10 next one, which is Huffman Hollow?

11 MR. NJIE: The next project is 99173, Huffman
12 Hollow. There is a question of extension again to --

13 MS. BINGHAM: And go back over this. With this
14 '99 number, that gives me an indication that we voted on
15 this in '99, but was it a forward as well?

16 MR. NJIE: No. This was not a forward.

17 MS. BINGHAM: This was a '99? This is Huffman
18 Hollow. Okay.

19 MR. NJIE: That's correct.

20 MS. BINGHAM: Lakeside is 0002 -- okay. So
21 Huffman Hollow is a '99. Okay.

22 MR. NJIE: That's correct.

23 Again, the foundation has started. They wanted
24 to be able to meet the post foundation activities --

25 MS. BINGHAM: Is the developer here?

1 MR. NJIE: I think he is. It was Charlie
2 Washburn.

3 VOICE: He left.

4 MR. NJIE: He left?

5 He is asking for an extension to be able to
6 meet the post foundation activities. They've already
7 poured slab on the ground, and they wanted to be able to
8 technically comply by the deadline or by the time it has
9 established, so he's asking for an extension, citing the
10 wet weather conditions as the reason for not advancing
11 beyond that stage.

12 MR. DAROSS: I move the extension be granted.

13 MR. JONES: We have a motion. Is there a
14 second?

15 MS. SAENZ: I second.

16 MR. JONES: Seconded by Ms. Saenz. Further
17 discussion?

18 MR. CONINE: So he's in technical default now.
19 By moving the date to May, he preserves the tax credits.
20 Is that correct?

21 MR. NJIE: Yes.

22 MR. CONINE: Does that boil it down to
23 something simple?

24 MR. NJIE: Well, generally, yes, that is
25 correct. He wants to be able to say he's a deferment

1 stage and not just a foundation.

2 MS. BINGHAM: Speak up please.

3 MR. NJIE: He wants to comply with every aspect
4 of that condition; that is, to be generally post-
5 foundation as to the framing at the time.

6 MR. CONINE: All right.

7 MR. JONES: Hearing no further discussion, are
8 we ready to vote? I assume we are.

9 All in favor of the motion please say aye.

10 (A chorus of ayes.)

11 MR. JONES: All opposed to the motion please
12 say nay.

13 (No response.)

14 MR. JONES: All abstentions.

15 DR. GRIFFIN: I abstain.

16 MR. JONES: The motion carries.

17 Lakeside Village Apartments.

18 MR. NJIE: Lakeside Village is a 2000
19 allocation, and again, an extension request was submitted
20 to the department. The project initially had some delays
21 because of litigation. The city had changed the zoning
22 when the approval was given back in 2000 so they had to go
23 to court and sue the city, and ultimately a work-out was
24 made, and the project was commenced as a result of that
25 settlement, so there were additional delays that occurred

1 prior to the project commencing.

2 And again, the loan has closed on this project
3 and they are asking for an extension until May 15.

4 MR. BETHEL: I make a motion we approve the
5 extension.

6 MR. JONES: We have a motion. Is there a
7 second?

8 MS. BINGHAM: Second.

9 MR. JONES: The motion's been made and
10 seconded. Further discussion?

11 (No response.)

12 MR. JONES: Hearing none, I assume we're ready
13 to vote.

14 All in favor of the motion please say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed to the motion please
17 say nay.

18 (No response.)

19 MR. JONES: All abstentions.

20 DR. GRIFFIN: I'll abstain.

21 MR. JONES: The motion carries.

22 Item 4(b).

23 MS. STINER: Mr. Njie, will you make the
24 presentation for the determination notices?

25 Mr. Wenson --

1 MR. WENSON: Yes.

2 MS. STINER: Do you want him to take it out of
3 order or just wait?

4 MR. JONES: I think what we contemplated was
5 that after staff made the presentation, we'd let him
6 speak.

7 MS. STINER: Okay. Thank you.

8 MR. NJIE: The first --

9 MR. CONINE: Can I ask a quick question before
10 you get started here? I assume we can take these one at a
11 time rather than a blanket --

12 VOICE: Right.

13 MR. CONINE: -- and can you give us some
14 indication of the process that you went through getting
15 down to this and how many -- I'm curious as to how many
16 applications were kicked out based on some of the earlier
17 comments we heard, and how many we've got versus how many
18 we've got here.

19 MR. NJIE: I believe we have about ten projects
20 submitted for determination notice. There are other
21 projects to my knowledge that the department has indicated
22 that it will not proceed because of the concentration
23 issue. The Trammell Crow project is the only one that has
24 been affected by that.

25 We have a number of these projects that

1 received the reservation that pulled out on their own,
2 including the Washburn project and other projects such as
3 the [indiscernible] variety of reasons decided not to
4 proceed.

5 The projects have different time lines for
6 closing the bonds so that they are submitted to us to
7 review. It is a very compressed time frame as has been
8 indicated, so the ones that we are recommending right now
9 are the ones that need to be approved because the closing
10 deadline is upon the developers.

11 As a general matter, the process is similar to
12 the 9 percent in that we review them for threshold
13 requirements. We don't score them obviously, because
14 they're not competing. The reservation of tax credits is
15 subject to underwriting. It's subject to concentration
16 issues. It's subject to compliance with the qualified
17 allocation plan. They don't compete for them, because
18 federal law requires that they will be eligible if they
19 meet certain requirements using tax exempt financing.

20 And so we treat them similar to tax-credit
21 projects. We treat them similar to the 9-percent projects
22 in terms of the way we review them for underwriting. They
23 go through that same process. They go through the same
24 guidelines, but I think generally we are more lenient as a
25 matter of fact in the way we underwrite these deals, and

1 there are a lot of deficiencies coming in, a lot of
2 opportunities for developers to bring back supplemental
3 information much more than would obtain in the regular 9-
4 percent tax credits.

5 So by and large I think the process we have is
6 a very open process, a vigorous process, and a fair one
7 for the developers. The concentration issue is one that
8 needs to be addressed by all concerned. What we face
9 right now is with the housing finance corporations do not
10 in my opinion do a good job in screening these projects
11 before they issue the reservation. The department has a
12 process in place with the multifamily division where we
13 require developers who receive more than one reservation
14 on the same tract of land to [indiscernible] for one
15 reservation, because we only proceed with one.

16 No similar policy exists to my knowledge with
17 respect to the other issuers, so all of them put these
18 bonds in the lottery and we are left with the unenviable
19 task of trying to rationalize this and to make judgment as
20 to which ones shall be allocated for this and which ones
21 shouldn't be. So this is a long-term process that perhaps
22 can be rectified through the legislative process.
23 Hopefully that will be done.

24 MS. BINGHAM: What's the first one on your
25 list, what determination notice?

1 MR. CONINE: Can I ask one more quick question
2 about scoring?

3 MS. BINGHAM: Oh, sure.

4 MR. CONINE: You said they're not scored
5 because it's not competitive, but could that not be a tool
6 for the board to use in its evaluation with the thought
7 process being we're always thinking about the 9-percent
8 realm, and we would know how that 4-percent project
9 scored? We could get a score of 50 and still be passing
10 unless you tell me there's a problem with that analysis.

11 MR. NJIE: There is very little that
12 distinguishes these projects from each other except for
13 site locations and maybe the financing. They all tie
14 within 100 percent or 50 as required by the --

15 MS. BINGHAM: Which is the first required to do
16 under the law.

17 MR. NJIE: -- by the bond lottery, so they're
18 not competing on the basis of providing additional units
19 for low income tenants, so the basis for charging them
20 beyond that I think would be based on site location,
21 maybe -- certainly on compliance history.

22 If there is any issue of non-compliance, that
23 will potentially kill a property. But then apart from
24 that, they are identical in many respects.

25 MS. BINGHAM: They just fall out of the ball,

1 the lottery.

2 MR. CONINE: I understand that, and again, I'm
3 asking -- let me just ask the question differently. Would
4 you go back and score all ten of these for me based on our
5 current rules under the 9 percent and send me an email on
6 what the score is on all these?

7 MR. NJIE: Okay. I will do that.

8 MR. CONINE: Thank you.

9 MR. JONES: At this point I think it might be
10 appropriate to give Mr. Wenson a chance to comment.

11 MS. BINGHAM: I don't think he is the first
12 one.

13 MR. JONES: Okay.

14 MS. BINGHAM: He is not the first one. The
15 first one is my book is Greenville, One Ranch View, Ltd.
16 The developer is Mr. Ken Mitchell. That's the first one.

17 MR. BREWER: (Perusing documents.) I've got
18 Roseland Fellowship. I've got a different one.

19 MR. NJIE: 1401.

20 MR. BREWER: That's what I've got.

21 MS. BINGHAM: 1401. I've got 1402. Okay.
22 (Perusing documents.) All right. This is Rosewood
23 Fellowship.

24 MR. NJIE: That's correct. Project Number
25 1401, Roseland Gardens in Dallas.

1 This is an elderly property and the tax credit
2 recommend amount is 276,650. It's a new construction
3 project and there are no non-compliance issues relating to
4 the development team. We have several conditions outlined
5 in the underwriting report subject to -- for the
6 developers to comply with, so the board's action will be
7 subject to those conditions enumerated.

8 And these are 101 units of new construction.

9 MR. BETHEL: I make a motion we approve
10 Roseland Gardens, Number 01401 subject to underwriting --

11 MS. BINGHAM: Subject to those four conditions.

12 MR. BETHEL: Right.

13 MR. BREWER: I second.

14 MR. JONES: The motion's been made and
15 seconded. Further discussion?

16 (No response.)

17 MR. JONES: Hearing none, I assume we are.

18 All in favor of the motion please say aye.

19 (A chorus of ayes.)

20 MR. JONES: All opposed to the motion please
21 say nay.

22 (No response.)

23 MR. JONES: All abstentions.

24 DR. GRIFFIN: I abstain.

25 MR. JONES: The motion carries.

1 MR. NJIE: The next project is 01402, Ranch
2 View Town Homes in Greenville. Again, this is a new
3 construction project comprised of 250 units. We are
4 recommending an allocation amount of \$868,699.

5 MS. BINGHAM: I have one question. The
6 developer is here. Right?

7 MR. MITCHELL: I'm here.

8 MS. BINGHAM: Okay. Is this a 2000 --

9 MR. NJIE: This is a -- I believe this is a
10 2001 lottery.

11 MS. BINGHAM: Is it covered under the current
12 tax-credit QAP that we voted for recently?

13 MR. NJIE: Yes. All these are covered.

14 MS. BINGHAM: Okay. That was my question.

15 Now, I have a letter -- we have ex parte rules
16 we voted on -- I have a letter from the developer that was
17 sent to Mr. Njie. It has March 3, 1999. It talks about
18 he'll be here on March 27 of 2001. I assume that was
19 March of 2001.

20 It is cc'd to Ms. Stiner, Mr. Jones, Mr.
21 Daross, Robert Brewer, Lydia Saenz, Marsha Williams, C.
22 Kent Conine, Don Bethel. My name is omitted I guess for
23 obvious reasons.

24 Mr. Chairman, I didn't vote for the ex parte
25 rule. There are a lot of laws I don't like but I try to

1 follow them and obey them. Mr. Bethel, when he voted on
2 the ex parte rule, he said does it include faxes and other
3 information? This is a clear violation of our ex parte
4 rule, so that is the reason I'm not going to vote -- I
5 don't have a problem with the project or the developer,
6 but if we've got rules, they ought to be followed.

7 Now, maybe he didn't fax it. Maybe he just
8 cc'd it to the board members to intimidate the staff, but
9 here is a copy of it.

10 Is this your fax number, Mr. Mitchell?

11 MR. JONES: Also, I think that Mr. Njie brought
12 that to the attention of Ms. Marks --

13 MS. BINGHAM: Okay.

14 MR. JONES: -- and Ms. Marks handled that
15 matter for us, Ms. Bingham.

16 MS. BINGHAM: How did she handle it?

17 MR. MITCHELL: I'd like to address the
18 audience. My name is Ken Mitchell. We never sent that
19 letter to any board members.

20 MS. BINGHAM: You just put the names on --

21 MR. MITCHELL: That's correct.

22 MS. BINGHAM: You just --

23 MR. MITCHELL: That's right.

24 MS. BINGHAM: You led the staff to believe they
25 were getting --

1 MR. MITCHELL: I changed my mind and never sent
2 it.

3 MS. BINGHAM: You've changed your mind and you
4 never sent it?

5 MR. MITCHELL: That's right.

6 MS. BINGHAM: But you wrote it?

7 MR. MITCHELL: That's right.

8 MS. BINGHAM: Okay.

9 MR. MITCHELL: But I did not send it.

10 MS. BINGHAM: Okay. When people see a cc to a
11 board member and you just change your mind and don't cc
12 it, you just --

13 MR. MITCHELL: That's right.

14 MS. BINGHAM: You just decided that I cc'd it
15 to them, but let me go over some more information on it.

16 It addresses -- and I'm assuming the staff has
17 worked this out if they're recommending the project. I
18 don't have a problem with the project or the town or the
19 developer or anybody else. We're talking about compliance
20 issues on 15 previous projects, and it is written to Mr.
21 Njie and cc'd to seven board members, which is a clear
22 violation of the ex parte rule that this board approved
23 and the governor signed in the QAP that is applicable to
24 the projects on the agenda, Mr. Chairman.

25 So Mr. Developer, we can hear from you.

1 MR. MITCHELL: I'm sorry. It wasn't sent --

2 MR. JONES: Could we hear from Ms. Marks --

3 MS. BINGHAM: Oh, sure.

4 MR. JONES: -- if you don't mind.

5 MS. BINGHAM: Sure.

6 MR. JONES: Mr. Njie referred the matter to Ms.
7 Marks, and I would like her to address how it was handled
8 by our staff.

9 MS. BINGHAM: Thank you.

10 MS. MARKS: Basically, the question was raised
11 as to whether or not it would go to the parameters of
12 whether the ex parte rule would apply where somebody was
13 cc'd, and so it would have to be a determination. I
14 called Mr. Mitchell and asked him if he had sent the fax
15 or if he had faxed any of the board members on this and
16 told him it would have to be determined whether or not
17 this was a violation, that while there might be
18 differences of opinion as to whether or not this actually
19 was a violation that he had the right to come here and to
20 make public comment on the basis of it and to talk about
21 his credit project, but that it was not -- that he assured
22 me that he had retrieved -- that they had not been faxed
23 and he -- I made that clear to Mr. Njie as well.

24 MS. BINGHAM: You said retrieved or had not --

25 MS. MARKS: That it had not been sent.

1 MS. BINGHAM: Okay.

2 MS. MARKS: Had not been faxed.

3 DR. GRIFFIN: I have a question.

4 MS. BINGHAM: You can't participate in this.

5 DR. GRIFFIN: But I have a question.

6 MS. BINGHAM: You can't participate in --

7 DR. GRIFFIN: Not in this. It's just a --

8 MS. BINGHAM: You can't participate in this,
9 Dr. Griffin. You should not be in this. You probably
10 should leave the room.

11 DR. GRIFFIN: No, I'm not leaving.

12 MS. BINGHAM: Ms. Marks, so the developer told
13 you that he -- even though he wrote the names of the board
14 members and he used this fax that he had not submitted it?

15 MS. MARKS: That's correct.

16 MS. BINGHAM: He put the names on here. He
17 intended to fax it but he changed his mind.

18 MS. MARKS: I believe that's right.

19 MS. BINGHAM: Okay. Thank you. That's all I
20 need to know.

21 DR. GRIFFIN: Mr. Chair, may I ask a question?

22 MS. BINGHAM: Dr. Griffin, you should not
23 participate --

24 DR. GRIFFIN: Ms. Bingham --

25 MS. BINGHAM: You should not participate in

1 this. You should not participate in this discussion.

2 Mr. Chair, like I said, I didn't vote for the
3 ex parte rule. There are a lot of laws and rules on the
4 books that I don't like, but as a law-abiding citizen I
5 try to abide by them. This gentleman violated our ex
6 parte rule. Either he sent this to the staff, cc'd to the
7 board members with the intent of intimidating them by
8 putting seven board members.

9 If you don't intend to send something to them
10 why did you put it in writing and say you're cc'ing us?

11 So that's my only point. Now, I'm not -- I
12 don't have a problem with the developer or his project,
13 but I do have this, so may we continue? I'm through with
14 this.

15 MR. BETHEL: I don't think I received anything.

16 MS. SAENZ: I didn't either.

17 MS. BINGHAM: I did not, not from him. I got
18 his fax number on here but it didn't come --

19 MR. CONINE: I guess I'd be curious, Ms.
20 Bingham, how you got that letter.

21 MS. BINGHAM: That's -- why don't you leave
22 that to your imagination. We'll leave that to your
23 imagination.

24 MR. MITCHELL: Can I say something?

25 MS. BINGHAM: Is this your letter?

1 MR. MITCHELL: Yes. I just want to say if -- I
2 probably caused a lot of confusion, and for that I
3 apologize. It's a new rule. I was not aware of it. I
4 didn't know that it applied to bond projects, and that is
5 my mistake. I'm just glad nothing was sent.

6 Thank you.

7 MR. BETHEL: So, Mr. Chair, what did our legal
8 counsel say? Did she make a determination whether this
9 violated it or not?

10 MS. MARKS: On the representations of Mr.
11 Mitchell which basically were that it had not been faxed
12 or mailed to any of the board members who were cc'd, I
13 went back to Mr. Njie and said that -- and told staff who
14 the letter was addressed to that I didn't believe there
15 was a violation.

16 MS. BINGHAM: Thank you, Ms. Marks.

17 Mr. Njie, will you continue the presentation?

18 MR. NJIE: Yes. The project in question is
19 Number 01402, Ranch View Town Homes in Greenville. We're
20 recommending an annual allocation of 868,699. The project
21 is comprised of 250 units, and we have four underwriting
22 conditions listed in the summary. And we're recommending
23 an allocation.

24 MR. JONES: Is there a motion?

25 MR. CONINE: Move for approval.

1 MS. SAENZ: I second that.

2 MR. JONES: The motion's been made and
3 seconded. Further discussion?

4 (No response.)

5 MR. JONES: Hearing none, I assume we're ready
6 to vote.

7 All in favor of the motion please say aye.

8 (A chorus of ayes.)

9 MR. JONES: All opposed, nay.

10 (No response.)

11 MR. JONES: All abstentions.

12 DR. GRIFFIN: I abstain.

13 MS. BINGHAM: I abstain as well.

14 MR. JONES: The motion carries.

15 MS. BINGHAM: Mr. Njie, the next one is 01403
16 in the book.

17 MR. NJIE: Yes. Bent Tree Town Homes in
18 Waxahachie by the same developer. Total units 250, annual
19 allocation recommended 870,246, subject to the two
20 underwriting conditions outlined.

21 MS. BINGHAM: And this is also covered by the
22 same letter that I talked about?

23 MR. NJIE: That's correct.

24 MS. BINGHAM: Same developer, same letter.

25 MR. CONINE: Move for approval subject to staff

1 conditions.

2 MR. DAROSS: Second.

3 MR. JONES: The motion's been made and
4 seconded. Further discussion?

5 (No response.)

6 MR. JONES: Hearing none, are we ready to vote?

7 I assume we are.

8 All in favor of the motion please say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed to the motion please
11 say nay.

12 (No response.)

13 MR. JONES: All abstentions.

14 DR. GRIFFIN: I abstain.

15 MS. BINGHAM: I abstain, Mr. Chairman.

16 MR. JONES: The motion carries.

17 MR. NJIE: The third project on the list is
18 Silverton Village Town Homes in Ennis, Number 01404.

19 MS. BINGHAM: And, Mr. Njie, let me make for
20 the record, the same developer, also in the same letter.
21 Please proceed with your presentation.

22 MR. NJIE: We're recommending an annual
23 allocation of 870,086, subject to the two underwriting
24 conditions outlined.

25 MS. BINGHAM: You've got two conditions.

1 MR. NJIE: Yes.

2 MR. CONINE: Move for approval subject to staff
3 conditions.

4 MR. DAROSS: Second.

5 MR. JONES: The motion's been made and
6 seconded. Discussion?

7 (No response.)

8 MR. JONES: Hearing none, I assume we're ready
9 to vote.

10 All in favor of the motion please say aye.

11 (A chorus of ayes.)

12 MR. JONES: All opposed to the motion, nay.

13 (No response.)

14 MR. JONES: All abstentions.

15 DR. GRIFFIN: I abstain.

16 MS. BINGHAM: I abstain, Mr. Chairman.

17 MR. JONES: The motion carries.

18 MR. NJIE: Next project is Number 01410, Cullen
19 Park Apartments in Houston, number of units, 240. Staff
20 is recommending \$720,010 annually subject to four
21 underwriting conditions.

22 MR. DAROSS: Move approval, subject to the
23 recommendations --

24 MR. CONINE: Second.

25 MR. JONES: The motion's been made and

1 seconded. Further discussion?

2 (No response.)

3 MR. JONES: Hearing none, I assume we're ready
4 to vote.

5 All in favor of the motion please say aye.

6 (A chorus of ayes.)

7 MR. JONES: All opposed, nay.

8 (No response.)

9 MR. JONES: All abstentions.

10 DR. GRIFFIN: I abstain.

11 MR. JONES: The motion carries.

12 MR. NJIE: Next project is Number 01411,
13 Newport Apartments in Houston, 224 units. It's an
14 acquisition rehab project. We're recommending \$351,036,
15 subject to the five underwriting conditions outlined.

16 MR. DAROSS: Move approval, subject to the five
17 conditions.

18 MR. BREWER: Second.

19 MR. JONES: The motion's been made and
20 seconded. Further discussion?

21 (No response.)

22 MR. JONES: Hearing none, I assume we're ready
23 to vote.

24 All in favor of the motion please say aye.

25 (A chorus of ayes.)

1 MR. JONES: All opposed to the motion please
2 say nay.

3 (No response.)

4 MR. JONES: All abstentions.

5 DR. GRIFFIN: I abstain.

6 MR. JONES: The motion carries.

7 MS. STINER: Mr. Chairman, may I just ask for a
8 point of clarification on this?

9 You said five underwriting conditions. I have
10 six conditions on mine, or do I have the wrong --

11 MR. NJIE: Do you have it on the board summary?

12 MS. STINER: Yes.

13 MR. NJIE: You have six?

14 MS. STINER: Yes. Maybe it's an old one.

15 Thank you.

16 MR. CONINE: I have six on mine too.

17 MS. STINER: You've got six on yours?

18 MR. CONINE: Yes.

19 MR. NJIE: What is the sixth condition?

20 MS. BINGHAM: The fifth says -- mine says
21 receipt, review, and acceptance of a commitment to provide
22 credit enhancement.

23 MR. NJIE: That is the fifth.

24 MR. DAROSS: The sixth one is reduction in tax-
25 credit allocation to not more than 351,036 annually.

1 MR. NJIE: Well, that was implemented -- that
2 is what we recommended.

3 MR. DAROSS: So that's not really a condition.
4 That's what you do.

5 MR. NJIE: That's correct.

6 MR. JONES: Next one.

7 MR. NJIE: Next is Bellfort Pines, 01412 in
8 Houston, 248 units. The recommendation states an annual
9 allocation of 760,470, subject to the four underwriting
10 conditions.

11 MR. DAROSS: Move approval, subject to those
12 four conditions.

13 MR. CONINE: Second.

14 MR. JONES: Further discussion?

15 (No response.)

16 MR. JONES: Hearing none are we ready to vote?
17 I assume we are.

18 All in favor of the motion please say aye.

19 (A chorus of ayes.)

20 MR. JONES: All opposed, nay.

21 (No response.)

22 MR. JONES: All abstentions.

23 DR. GRIFFIN: I abstain.

24 MR. JONES: The motion carries.

25 MR. NJIE: The next project is in Dallas,

1 01414, 117 units. It's a rehabilitation of an existing
2 property. We are recommending an annual allocation amount
3 of 206,922, subject to the five conditions outlined.

4 MR. CONINE: I have four.

5 MS. WILLIAMS: I have five.

6 MR. CONINE: I'm on the wrong one, then.

7 MR. NJIE: This is Las Colinas.

8 MR. JONES: Do we have a motion?

9 MR. DAROSS: I'll move we approve --

10 MR. BREWER: I second.

11 MR. JONES: We have a motion and we have a
12 second. Further discussion?

13 (No response.)

14 MR. JONES: Hearing none, I assume we're ready
15 to vote.

16 All in favor of the motion please say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed to the motion please
19 say nay.

20 (No response.)

21 MR. JONES: All abstentions.

22 DR. GRIFFIN: I abstain.

23 MR. JONES: The motion carries.

24 MR. NJIE: The next project is Starcrest
25 Apartments in Beaumont, Project Number 01415, 150 units.

1 We are recommending an annual allocation of 248,630,
2 subject to three underwriting conditions.

3 MR. JONES: Thank you. Is Mr. Wenson here? I
4 know he wanted to speak to this.

5 MR. NJIE: He wants to speak to the next one.

6 MR. JONES: Okay. Do we have a motion?

7 MR. DAROSS: So moved.

8 MS. SAENZ: Second.

9 MR. JONES: The motion of approval has been
10 seconded. Further discussion?

11 (No response.)

12 MR. JONES: Hearing none, I assume we're ready
13 to vote.

14 All in favor of the motion please say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed, nay.

17 (No response.)

18 MR. JONES: All abstentions.

19 DR. GRIFFIN: I abstain.

20 MR. NJIE: The next project is Palomino Place
21 Apartments in Houston.

22 MR. CONINE: Mine's not in the book.

23 MR. NJIE: I think that was a supplemental.

24 MR. JONES: Mr. Njie, if you would, describe it
25 to us while we're finding it.

1 MR. NJIE: In Houston, Texas, a 272 units.
2 It's an existing property being rehabilitated. We have
3 two underwriting conditions that have been outlined here,
4 and Mr. Wenson wanted to address I believe the reduction
5 in the tax-credit amount.

6 MR. JONES: Mr. Wenson.

7 MR. WENSON: I'm Bill Wenson. Mr. Chairman,
8 I'd like to thank you for giving me this opportunity.

9 MR. JONES: I tried hard.

10 MR. WENSON: You did.

11 Going back to our discussion in the evaluation
12 and underwriting of this property, staff is recommending a
13 substantial reduction in the tax credits based on what I
14 can perceive from underwriting, which I received this
15 morning and in my review of it -- shows that the change is
16 that they believe I can get higher rents in my one and two
17 bedroom units.

18 We have gone back to our market analyst and
19 they have reviewed this situation, and as we were going
20 through earlier we were talking about some of the
21 statistics that they had determined, and if you'll indulge
22 me to go to page 4 of the Danter Company letter one more
23 time, we talk about price per square foot and my markets
24 in my one bedroom of tax-credit properties in my area are
25 51 to 54 cents.

1 We are proposing 61 cents a square foot. Our
2 units are smaller than the market and they talk about
3 that. However, we are at 61 cents, which is higher than
4 what the market study is showing our immediate tax-credit
5 competitors to be, and staff is recommending that we
6 should go to 75 cents, which is what the market study says
7 market rate projects without any restriction should rent
8 for. The same thing with our two bedroom. We're
9 recommending 55 cents a square foot. Our highest
10 competitor is at 54. Staff is recommending 70.

11 The threes and fours -- they're not nearly the
12 number of units in our market as there are in one and two
13 bedrooms. There's like almost 11,000 units in our
14 estimated market area. Almost 10,000 of those units are
15 one and two bedroom units.

16 We commissioned Danter Company because we think
17 they're a good market study company, and I think we have
18 market studies so that we can use them as a guide for
19 determining what our rents are going to be.

20 On page 5 of the Danter letter, some of the
21 comments that they make here are, "The rents as proposed
22 are very reflective of current standards among the three
23 tax-credit properties in the area. The rents TDHCA would
24 like to implement are among the highest compared to the
25 existing tax-credit alternatives, and the subject units

1 are among the smallest.

2 One of the telling things as a developer for us
3 is considering absorption rates, because that directly
4 reflects in the cost of our development and reaching our
5 sustained occupancy levels, and our proposed rents were at
6 eleven to 14 months. Our market analyst believed that if
7 we go to the recommended rents, we're going to be 24 to 30
8 months and possibly even longer.

9 On the final page, page 6 of his letter, it's
10 his opinion that while new rents will decrease the amount
11 of tax credits needed for Palomino Place, the TDHCA
12 recommended rent levels will significantly impact the
13 overall performance of the property and make the project
14 vulnerable in the market. Those are the comments of our
15 market study analysts, and as a developer, we make
16 decisions based on our market study analysts.

17 If I could direct your attention to the cover
18 letter that I put in the package, I'd like to just make a
19 couple of comments there. On page 2 the second paragraph
20 is where I'd like to start, and it's the second sentence.

21 It says, "In order to hit the rents that we are
22 forecasting, HUD has to prove a 26-percent increase in our
23 one bedrooms, a 23-percent increase in our two bedrooms, a
24 66-percent rent increase in our three bedroom, and a
25 whopping 80-percent increase in our four bedrooms." This

1 is a preservation project. It does have existing multiple
2 Section 8 contracts on it, and we are asking HUD to
3 increase our rents substantially just to reach what we
4 think the market is.

5 If we could go back to page 1 of this same
6 letter, under our development budget with the credits we
7 have requested we are deferring 62 percent of our
8 developer fee. With the reduced credit amount, staff is
9 recommending we are forced to defer 100 percent of our
10 developer fees and probably reduce our scope of work which
11 creates us a problem because we are mandated by FHA on our
12 scope of work.

13 They send out their own inspectors. We have
14 already gone through that process and determined what that
15 scope of work should be.

16 MS. BINGHAM: So your issue is that by
17 decreasing your tax-credits amount they are forcing you to
18 increase your rents and on and on. Now, these tax credits
19 are not competitive. I don't even know if they are
20 scarce, so where is the staff underwriter who worked on
21 this one? Where is your heartburn with the additional
22 amount of tax credits? What harm would it do to us if it
23 would do any? What's the deal?

24 MR. GOURIS: Tom Gouris, director of credit
25 underwriting.

1 We're mandated under Section 42 to provide no
2 more credits than are necessary for a project.

3 MS. BINGHAM: Reasonableness. Okay.

4 MR. GOURIS: Yes. And we've defined
5 reasonableness with all our programs to be at 125 debt
6 coverage ratio, so we valuate what the potential of a
7 project is. In this case there's nothing in the
8 information we were provided with thus far that would
9 mitigate the ability of the applicant to raise rents the
10 maximum 50-percent rent --

11 MS. BINGHAM: To the maximum what rent?

12 MR. GOURIS: To the maximum 50-percent rent
13 limit --

14 MS. BINGHAM: Okay.

15 MR. GOURIS: -- minus utility allowance. And
16 he's prepared some additional information that we would be
17 glad to take into consideration and come back to the board
18 at subsequent --

19 MS. BINGHAM: Let me ask the developer a
20 question. What is your lottery date that you have to have
21 if you're --

22 MR. WENSON: May 15.

23 MS. BINGHAM: May 15.

24 MR. WENSON: Is when we have to close.

25 MS. BINGHAM: Yes. You've got a problem. You

1 can't sit around and wait for us to come back and resolve
2 this. This is going to have to be resolved today.

3 Could I make a recommendation that we allow the
4 higher amounts of credits and give him time to justify
5 that later? Can we do that? We're just going to kill the
6 deal if we sit around arguing about --

7 MR. NJIE: We were going to recommend that the
8 amount that is in the board summary, 299,000, be awarded,
9 subject to him providing additional information to
10 evaluate and go up to the maximum 334,000 --

11 MS. BINGHAM: Why don't we do just the
12 opposite, because you can't give more credits than we vote
13 for. You don't have authority to give higher credits, but
14 you can come -- could I make a motion, Mr. Chairman, that
15 we approve the higher amount that the developer is
16 requesting and give him the opportunity to negotiate with
17 the staff on how he uses them or if he needs them, but we
18 don't have time to come back another month, because he's
19 got 120 days --

20 MR. BETHEL: I second that motion.

21 MS. BINGHAM: My motion is that we approve the
22 higher amount.

23 MR. CONINE: Which number is that, because he
24 said a number different than what's here on the page.

25 MS. BINGHAM: What's the number you requested,

1 because you did your own number --

2 MR. BREWER: 377.

3 MR. WENSON: I think it was --

4 MR. BREWER: 377.

5 MR. WENSON: Let me see if I have that with me
6 here. I'm sorry. One moment. I thought it was 397.

7 MS. BINGHAM: That's a big step --

8 MR. WENSON: (Perusing documents.) I'm looking
9 at staff underwriting and that's what they say I'm
10 eligible for.

11 MS. BINGHAM: But you should know what your own
12 request was.

13 MR. WENSON: I believe it was 380.

14 MR. BREWER: It says 377,899.

15 MR. WENSON: Then that's it.

16 MS. BINGHAM: So we're talking about \$100,000
17 in tax credits over ten years, which is a million dollars
18 times -- what percentage on that? How much percent on a
19 dollar?

20 MR. WENSON: They used 84 but my syndication
21 letter is 77.5.

22 MS. BINGHAM: 77.5. So how much in real
23 dollars are we talking about?

24 MR. WENSON: The difference in that? It's
25 \$620,000.

1 MS. BINGHAM: \$620,000. We're talking about
2 how many units?

3 MR. WENSON: 272.

4 MS. BINGHAM: Staff, does that give you a real
5 hard burn that that's something you can negotiate on? Can
6 we vote for the higher amount and then you all work out
7 with him the numbers without this killing the deal?

8 MR. NJIE: I believe your syndication letter
9 says 84 cents, isn't it?

10 MR. GOURIS: The one that was provided for the
11 underwriting report? Yes, but that's not the question.

12 MS. BINGHAM: Could we take a five minute break
13 and let the developer go get his own -- did you bring your
14 application today?

15 MR. WENSON: No, ma'am. I didn't, but they
16 have the syndication letter that is 77.5 that we have
17 executed.

18 MS. BINGHAM: Can we take a five minute break
19 and go get the syndication letter?

20 Can we take a five minute break, Mr. Chairman?

21 MR. JONES: Yes. We can --

22 MS. BINGHAM: Because we can't wait until next
23 month.

24 MR. WENSON: Excuse me. That syndication
25 letter is in your package. It's Apollo Housing, and it is

1 the same syndication letter that we have provided staff
2 this morning.

3 MR. GOURIS: The syndication letter that was in
4 the application was considerably more restrictive than
5 that syndication letter. We asked for --

6 MS. BINGHAM: I don't have a problem with that.
7 Can we take a five-minute break and you all get both of
8 the letters, the ones that you got this morning.

9 MR. JONES: We'll take a five-minute break, and
10 when we come back, please report to Ms. Bingham.

11 (Whereupon, a short recess was taken.)

12 MR. JONES: Mr. Njie, would you please answer
13 Ms. Bingham's question.

14 MR. NJIE: What is the question?

15 MS. BINGHAM: The question is to justify or
16 defend your recommendation based on the information you
17 got from the developer's document and from his syndicate.

18 MR. NJIE: The recommended amount here -- the
19 developer has the opportunity to exceed the amount
20 recommended, provided he provide additional information
21 that would justify a higher allocation amount, and this is
22 the process we do with all 4-percent tax-credit
23 allocations.

24 His problem, however, is that he indicated to
25 Tom that he is doing FHA financing, and the 299,000 will

1 not be adequate to enable him to close the transaction,
2 and he was looking at a higher number of 334,000 to be
3 able to close and then come back to the department with
4 additional information that we can reevaluate.

5 MS. BINGHAM: To justify that amount?

6 MR. NJIE: To justify --

7 MS. BINGHAM: The increased amount.

8 MR. NJIE: That's correct.

9 MS. BINGHAM: Okay.

10 MR. NJIE: And I guess I'm waiting for Tom to
11 see what he thinks about that, and then we can amend our
12 recommendation to that.

13 MS. BINGHAM: Well, I would make a motion that
14 we amend our recommendation to the 330 something amount
15 and give the staff the authority to have the developer to
16 justify it in writing.

17 MR. JONES: We have a motion.

18 MR. BETHEL: Second.

19 MR. JONES: The motion's been seconded.

20 Further discussion? It was by Mr. Bethel. Further
21 discussion?

22 MR. DAROSS: Yes. I have some discussion, and
23 this may require a legal opinion, but I noticed in the
24 packet that was faxed to us as a supplement to the board
25 book, the bottom of the first page on the board's summary

1 under public comment it lists several different state and
2 city representatives and lists Margie Bingham as director
3 of Housing and Community Development Department, who I'm
4 sure because she is in that position was given this
5 application and asked for comment.

6 By the same token, we have got an ex parte rule
7 that says board members can't look at anything from
8 developers before the board meeting, so it would seem that
9 in her position --

10 MS. BINGHAM: Let me respond to that. I do not
11 have a copy of the developer's application in connection
12 with my job at the City of Houston. Let me make that very
13 clear. As the director of housing for the City of
14 Houston, what I do is write a statement on behalf of the
15 mayor and city council that this application -- and he
16 gives me -- the developer submits a number of units and a
17 location, and I say it is consistent with our consolidated
18 plan. That's the comment I give.

19 It is consistent, and I will state that over
20 and over again, and I do that, and that is a law that the
21 Texas Legislature passed that says I sit here as a public
22 member, and in that regard I don't have a conflict of
23 interest as it relates to the combining of this job and my
24 city job.

25 You're damn right I say that it's consistent

1 with my consolidated plan. It is. And that is what I
2 reviewed.

3 MR. DAROSS: I'm not suggesting, Mr. Chairman,
4 that this --

5 MS. BINGHAM: Just like I said on every other
6 project in Houston. I said it's consistent with the
7 consolidated plan. I said the Trammell Crow project was
8 consistent with the city's consolidated plan, and that is
9 the only comment that is requested from a city official.
10 I have the same comment that the laws say that the public
11 officials -- they have the right to comment on whether
12 it's consistent with their local consolidated plan.

13 It is consistent. Every application from
14 Houston that we discussed this morning is consistent with
15 my consolidated plan, and I have said that on every
16 application.

17 MR. DAROSS: Mr. Chairman, perhaps I didn't
18 make myself clear. I'm requesting that we get
19 verification from either the Attorney General's Office or
20 general counsel's office as to whether any information
21 about a plan which is given to a board member in whatever
22 capacity the board member may be sitting in conflicts with
23 our ex parte rule.

24 MR. JONES: Judge, I think that's a good idea,
25 and I'll refer that to Ms. Marks.

1 MS. BINGHAM: Why don't you do that? It is in
2 your legislation, and I told you that when you passed the
3 ex parte rule, that you could not stop me doing my job at
4 the City of Houston.

5 MR. JONES: Further discussion?

6 (No response.)

7 MR. JONES: Hearing none, we have a motion on
8 the floor and a second. All in favor of the motion please
9 say aye.

10 (A chorus of ayes.)

11 MR. JONES: All opposed to the motion, nay.

12 (No response.)

13 MR. JONES: All abstentions?

14 DR. GRIFFIN: I abstain.

15 MR. BREWER: And at this point we've got one
16 more.

17 MR. NJIE: I believe that concludes our tax-
18 credit items.

19 MR. JONES: Thank you, Mr. Njie.

20 MR. WENSON: Could I have one moment to say a
21 couple of other comments? It's just that I appreciate
22 what we've done here. I know that I started this
23 discussion with I was happy with being approved under
24 staff's recommendations and I could work it out with them,
25 and I appreciate what the board has done today.

1 Thank you very much.

2 MR. JONES: Thank you.

3 All right. Let's move to Item 5 on the agenda.

4 Is there a motion?

5 MR. BREWER: Yes. I make a motion to
6 renominate the vice-chair, James Daross.

7 MR. JONES: Is there a second?

8 MR. CONINE: Second.

9 MR. JONES: Discussion?

10 (No response.)

11 MR. JONES: All in favor of the motion please
12 say aye.

13 (A chorus of ayes.)

14 MR. JONES: All opposed, nay.

15 DR. GRIFFIN: I abstain.

16 MR. DAROSS: I'll abstain.

17 MS. BINGHAM: I vote nay.

18 MR. JONES: The motion carries.

19 Motion with regard to Item 5. I think we have
20 a secretary.

21 MR. BREWER: I renominate Delores Groneck for
22 the secretary position.

23 MR. CONINE: Second.

24 MR. JONES: Discussion?

25 (No response.)

1 MR. JONES: Hearing none, all in favor of the
2 motion please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed, nay.

5 (No response.)

6 MR. JONES: All abstentions?

7 (No response.)

8 MR. JONES: The motion carries. Any further
9 motions with regard to Item 5?

10 (No response.)

11 MR. JONES: Hearing none, why don't we move to
12 the executive director report if we could, Ms. Stiner,
13 before going in to executive session.

14 MS. STINER: Thank you, Mr. Chair.

15 The report items for the executive director --
16 Michael Lyttle, will you come forward and do a wrap-up on
17 legislation that's been approved or passed and signed?

18 MR. LYTTLE: Not details.

19 MS. STINER: Not detail?

20 MR. LYTTLE: A brief summary.

21 MS. STINER: Yes. Thank you.

22 MR. LYTTLE: We have several major bills --
23 actually if you want to know the truth, we have over 270
24 bills that we're tracking right now that affect this
25 agency. Many of them are general government bills but

1 it's quite a considerably busy time for my area and for
2 the agency with this session.

3 Two things to mention very quickly on
4 tomorrow's House Committee on Urban Affairs meeting, our
5 Sunset bill, House Bill 3449 filed by Representative
6 Gallego will be heard for the first time in House Urban
7 Affairs. The following week the committee hopes to pass
8 that bill out of the House into the full House, and then
9 the Senate side will take up their version of the Sunset
10 bill after that.

11 There are also several major bills that affect
12 our tax-credits program that affect sub-prime lending and
13 our bond cap that we're dealing with in the Urban Affairs
14 Committee and again, tomorrow's hearing will be
15 substantial with the amount of bills that are being heard.

16 And something else to mention, we are
17 thankfully through for the most part with the
18 appropriations and finance cycle with this legislative
19 session. I'm pleased to report that both the Senate
20 Finance Committee and the House Appropriations Committee
21 have passed our base line budget. In addition, on the
22 Senate side, they have approved approximately \$740,000 for
23 compliance monitors that we requested over the biennium in
24 their base bill.

25 In Article 11, which is basically a legislative

1 wish list, they -- the Senate Finance Committee has put
2 our request for a regional needs assessment in there. As
3 well, they've included \$40 million of funding for the
4 department's office of portfolio preservation. Also in
5 Article 11 the ENTERP [phonetic] program has a funding
6 amount of 6 million and rural fire prevention volunteers
7 request for \$210,000.

8 Also to mention, the Finance Committee changed
9 our rider dealing with site visits for the Low Income
10 Housing Tax Credit program, which will allow a designated
11 representative of a county or city official to visit with
12 our staff when we're out there, and -- if the mayor cannot
13 meet with our representatives.

14 Something else to mention, the Senate Finance
15 Committee approved several riders that were new riders
16 that basically directed us to utilize any surplus from our
17 refunded mortgage revenue bonds into our Bootstrap program
18 and to use US census tracts in considering statewide
19 housing needs. The interesting thing is the committee
20 substitute bill that we saw this morning from the Senate
21 for Senate Bill 1 did not include those riders, so I need
22 to clarify that with the Senate and I'll report back to
23 you on that particular issue.

24 And also very quickly, on the House side, House
25 Appropriations did pass us through with our baseline

1 budget. They've also added several riders that one of you
2 had talked about earlier, which was Rider 3. Also the
3 system benefit fund -- we received \$24 million for the
4 biennium from the system benefit fund to enhance our
5 energy assistance and weatherization programs, and that
6 initially didn't look very promising, but thankfully it
7 came through, so we are very pleased with that.

8 And this sort of encapsulates some of the
9 information that goes beyond what you've been receiving
10 from Anne Paddock, our deputy general counsel, with her
11 legislative summaries.

12 Are there any questions?

13 (No response.)

14 MR. JONES: Thank you.

15 Anything else?

16 MS. STINER: No. That's it. We'll defer our
17 report on our neighborhood partnership program portfolio
18 until next board meeting.

19 MR. JONES: With that then, we'll turn to Item
20 6 on the agenda, which is the presentation, discussion,
21 and possible approval of report from the Evaluation
22 Committee and discussion and possible action on the
23 evaluation and continued employment of the executive
24 director of the Texas Department of Housing and Community
25 Affairs, and I'll call us into executive session.

1 On this March 27, 2001 regular board meeting of
2 the Texas Department of Housing and Community Affairs held
3 in Austin, Texas, the board of directors adjourned into a
4 closed executive session as evidenced by the following:
5 the board of directors will begin its executive session
6 today, March 27, 2001, at 2:20 p.m.

7 (Whereupon, a short recess was taken.)

8 MR. JONES: The subject matter of this
9 executive session that we just had was personnel
10 matters -- discussion and possible approval of performance
11 evaluation for the executive director and to deliberate
12 and to discuss action on the evaluation and continued
13 employment of the executive director of the Texas
14 Department of Housing and Community Affairs under Section
15 551.074 Texas Government Code. Action taken, none.

16 Number two, litigation and anticipated
17 litigation (potential or threatened under Section 551.071
18 and 551.103, Texas Government Code Litigation Exception).
19 Action taken, none.

20 Personnel matters regarding duties and
21 responsibilities in relationship to budget under Section
22 551.074, Texas Government Code. Action taken, none.
23 Consultation with attorney pursuant to Section 551.071(2),
24 Texas Government Code.

25 The board of directors has completed its

1 executive session of the Texas Department of Housing and
2 Community Affairs on March 27, 2001, at 2:45 p.m.

3 I hereby certify that this agenda of an
4 executive session of the Texas Department of Housing and
5 Community Affairs was properly authorized, pursuant to
6 Section 551.103 of the Texas Government Code posted with
7 the Secretary of State's Office seven days prior to the
8 meeting pursuant to 551.044 of the Texas Government Code,
9 and that all members of the board of directors were
10 present, and that this is a true and accurate record of
11 the proceedings pursuant to the Texas Open Meetings Act,
12 Chapter 551 Texas Government Code.

13 With that, we have concluded all the items on
14 our agenda. Is there a motion --

15 MR. BETHEL: I make a motion we adjourn.

16 MS. SAENZ: I second that motion.

17 MR. JONES: All in favor of the motion please
18 say aye.

19 (A chorus of ayes.)

20 MR. JONES: The meeting is adjourned.

21 (Whereupon, at 2:48 p.m., the meeting was
22 adjourned.)

C E R T I F I C A T E

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MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: March 27, 2001

I do hereby certify that the foregoing pages, numbers 1 through 150, 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.

(Transcriber) 04/02/01
(Date)

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