

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

9:30 a.m.
Thursday,
July 12, 2001

State Capitol Extension
Room E1.028
1400 Congress
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chair
JAMES DAROSS, Vice chair
ROBERT BREWER
SHADRICK BOGANY
VIDAL GONZALEZ

STAFF PRESENT:

DAISY STINER, Executive Director
Delores Groneck

ADJOURN

P R O C E E D I N G S

1
2 MR. JONES: I'd like to call to order the board
3 meeting of the Texas Department of Housing and Community
4 Affairs for July 12, 2001.

5 I have one witness affirmation form of somebody
6 who'd like to speak to the board. If there were others
7 that would like to speak to the board, if you would fill
8 out a witness affirmation form, I would appreciate it.

9 Who has those, by the way? Delores?

10 MS. STINER: Delores.

11 MR. JONES: Do you have them?

12 MS. STINER: The witness affirmation forms.

13 MS. GRONECK: They've laying up there.

14 MR. JONES: Okay. Great. So if you do that,
15 and provide them to Delores, we sure would appreciate it.

16 The first order of business is to call the roll. Mr.
17 James Daross?

18 JUDGE DAROSS: Present.

19 MR. JONES: Mr. Bogany?

20 MR. BOGANY: Present.

21 MR. JONES: Mr. Brewer?

22 MR. BREWER: Present.

23 MR. JONES: Mr. Conine is absent. Mr.
24 Gonzalez?

25 MR. GONZALEZ: Present.

1 MR. JONES: Ms. Saenz? She is absent. Mr.
2 Salinas -- he is absent.

3 Ms. Williams? She is absent. Mr. Jones --
4 present. We do have a quorum.

5 The next order of business is public comment.
6 The first witness affirmation form I have is Mr. Davis.
7 Mr. Davis.

8 MR. DAVIS: How are you doing today?

9 MR. JONES: Fine. How are you?

10 MR. DAVIS: I'm good. Thank you. I have a few
11 little packets I'd like to give to the members of the
12 board. My name is Tres Davis. I am with Grant Works.
13 I'm the vice president for housing services. We're a
14 consulting firm. We represent approximately 210
15 communities and non-profits in rural Texas -- just around
16 the state.

17 MR. JONES: I think, if you wouldn't mind --

18 MR. DAVIS: Yes, sir.

19 MR. JONES: You know, I'm like you. I would
20 much rather speak from my feet.

21 MR. DAVIS: Be happy to.

22 MR. JONES: But if you would sit down, I think
23 that microphone can catch you and we can all hear you much
24 better.

25 MR. DAVIS: Okay.

1 MR. JONES: Thank you, sir.

2 MR. DAVIS: Is that better?

3 MR. JONES: Is that okay? All right. Thank
4 you.

5 MR. DAVIS: I'm here to talk about the HOME
6 program and the disqualification process that went -- that
7 has occurred on some of the applications that were
8 received.

9 This year 20 percent of all applications
10 received by HOME were disqualified -- a total of 47
11 applications. That's a huge increase over what we've seen
12 in the past. In the past it's been anywhere from zero to
13 four applications.

14 So we've gone from a very small number to 47.
15 And I believe that the reason this has occurred has been
16 really just an overzealous interpretation of what met
17 threshold and what didn't.

18 I'm here representing our four communities that
19 got disqualified with the applications that we turned in.

20 That's the City of Miles, Merkel, Lacoste, and China.

21 In the application packet I gave you -- the
22 little packets I gave you -- you'll see there's a
23 letter -- I have a list of all of the applicants that were
24 disqualified and the reasons given for the
25 disqualification and the letters that went out.

1 And then on the next page, you'll see a letter
2 to the City of Miles. The stated reason for the
3 disqualification was that the resolution from the
4 applicant's direct governing body dated within six months
5 of the application's submission deadline authorizing the
6 application for HOME funds was missing, incomplete, or
7 unsigned.

8 Now, if you'll turn to the next page, you'll
9 see a copy of the resolution that was included with the
10 application. This resolution is dated the 4th of June.
11 Applications were due the 11th. So, obviously, it falls
12 within the six-month period -- that it was signed by the
13 mayor, notarized by the city secretary.

14 I can only assume that this resolution was
15 considered invalid because there was a typographical
16 error. I've highlighted the typo. We gave the city a
17 sample resolution that the City of Texarkana had done for
18 the HOME program. And, unfortunately, when they
19 transcribed it, they left the City of Texarkana's name in
20 at the bottom.

21 Now, this does not in any way invalidate the
22 binding nature of this resolution. In talking with our
23 city attorney, he has stated to us that state law actually
24 requires, if there's any question about a resolution, that
25 you look at the minutes of the city council meeting, and

1 that's what determines whether or not -- what the intent
2 of the resolution was.

3 We've included a copy of the minutes that shows
4 that the City of Miles did intend on applying as the City
5 of Miles and not the City of Texarkana. So it would
6 appear that this application was disqualified for a
7 technical -- purely, purely technical reason that was
8 simply a typo that did not in any way invalidate the
9 resolution.

10 It is a binding resolution on the city. The
11 max amounts and everything like that is correct. The only
12 problem was it said the City of Texarkana. And just to
13 give you an idea, the City of Miles has one city employee
14 who's in the office. And she does everything -- takes the
15 water bills; she's the city secretary, et cetera. So you
16 can see how easily this can occur in a small community.
17 Things just slip by.

18 The next city I want to talk to you about is
19 the City of Merkel. The reason given for the
20 disqualification of the City of Merkel was that incomplete
21 or incorrect certification. Certification is in
22 there just attesting to the fact that all of the
23 information in the application is true to the best of the
24 applicant's knowledge.

25 When the City of Merkel downloaded the

1 application to sign it, they had a different word
2 processor -- word processing program, and it wouldn't
3 download properly. So they simply transcribed the
4 certification.

5 The first page is the copy from the
6 application. This is the format that the state provides.

7 This is the format that the city signed the certification
8 and turned it in. It is signed. The wording to the
9 certification is exactly the same.

10 They did leave off on the bottom a part that's
11 actually not what is certified -- but a question on the
12 bottom of the certification asking who the grant writer is
13 if it's not the city. That would be Grant Works. That
14 was left off of this certification.

15 Once again, it's not part of what's being
16 attested to though in the certification. And the state
17 had no problem identifying that we were the preparer of
18 the application because we were copied on the
19 disqualification letter. In addition, we also provided
20 the state with a list at the time I turned in the
21 applications of all of the cities that we were applying
22 for.

23 So there was no intent to hide the fact that we
24 were the application preparer. It was just simply a
25 mistake that happened in the transcription. We don't

1 believe it really affects the certification in any way,
2 shape, or form.

3 So, once again, we question whether this was an
4 appropriate measure to disqualify an entire application
5 because they left off that one bit of information.

6 The final two cities are the cities of Lacoste
7 and China. And they were disqualified because the --
8 because of past-due audits. In fact, they do not have any
9 past-due audits. What they failed to submit was a form
10 that the state has come up with called the Audit
11 Certification Form. It's the very last page.

12 And it is a form that the cities send to the
13 state saying that they don't have any audits due. It is
14 not an audit; it is not prepared by the auditor -- or it
15 doesn't have to be. Typically, it is, but it does not
16 have to be. It's not a requirement of the form the way we
17 read it.

18 So, in fact, not submitting a form saying that
19 they don't have any past-due audits doesn't rise to the
20 level of having a past-due audit.

21 Now, with all of our communities, we do track
22 these forms and we make sure to turn them in. These two
23 communities just happen to be new to us. So we did not
24 have any way of knowing what had been turned in in the
25 past, and that's why they were not submitted with the

1 application. They have since been submitted to the
2 Department, it's my understanding, by both of their
3 respective accounting firms.

4 The number of applications and -- these are the
5 only four we had rejected. And in looking at the reasons
6 these were rejected, it would appear that in some ways
7 maybe there was an overzealousness to interpret what was
8 to the level of meeting thresholds and what didn't meet
9 thresholds.

10 I understand the reason why there are
11 thresholds, and I applaud that there do need to be certain
12 thresholds when applications are received by the
13 Department.

14 But I think in this case we're really not
15 serving the rural communities of Texas by holding people
16 to this standard, especially doing it in such a -- just
17 broad sweeping way and this being very, very different
18 from the way this has been handled in the past.

19 For those of you who don't know, until about a
20 year-and-a-half ago, I worked for the HOME program for
21 TDHCA for about seven years. The way issues like this
22 were always handled -- was if it was a typo, it just -- it
23 was a typo. I mean, these applications are a 100, 200
24 pages long. That happens in them.

25 If we didn't have anything occur like this, I

1 know some of the applicants were rejected because a
2 certain box was checked wrong. Well, in the past, staff
3 would just simply call and say, Is this what you intended
4 to do, or did you mean to check this box. And we would
5 just make a note to the application. This year it was not
6 handled that way. They were just summarily dismissed.

7 With the -- with HOME and the agency being
8 charged to assist rural communities in accessing HOME
9 funds, I don't -- I think this was an overbiased move.
10 What I would like to -- I understand that the Board can't
11 take any action because I'm not on the agenda, but I know
12 in the past that your comments have had very heavy impact
13 on what has occurred.

14 What I would like to recommend is that the HOME
15 program prepare a report for the board, giving very
16 detailed information of why each of the applications was
17 rejected. Submit that. I know that they want to bring
18 funding recommendations, and obviously they need to, for
19 commitment reasons for HUD, to the Board for the HOME
20 program.

21 And I'd like to recommend that they get this
22 information to the Board before that occurs so that you
23 all have a chance to look over and determine for
24 yourselves whether you think that these were thrown out
25 for reasonable causes or whether they were being a little

1 bit too nit-picky, for lack of a better word, in throwing
2 these out.

3 I would also, of course, like to request that
4 our four applications be put back into the mix and be
5 considered valid and not disqualified applications.

6 In addition, I think that they need to go ahead
7 and score the applications that were disqualified, in case
8 the Board does believe that some of them were thrown out
9 for reasons that aren't justified so that they can go
10 ahead and be included when considering who gets funded and
11 who doesn't next month.

12 I thank you for your time. If you all have any
13 questions, I'd be more than happy to answer them.

14 MR. JONES: Thank you, sir.

15 MR. DAVIS: Thank you.

16 MR. JONES: That's the only witness affirmation
17 form I have. Is there anyone else that would like to
18 speak to the Board?

19 (Pause.)

20 MR. JONES: Is there anyone else that would
21 like to speak to the Board?

22 Seeing that there is not, we will then declare
23 the time for public comment at a close.

24 I would like to say this. Obviously, as the
25 speaker raised, it is not on our agenda. We can take no

1 action on the matter that just came up.

2 Ms. Stiner raised her concerns to me, and I
3 know to several other Board members -- please don't feel
4 like she didn't have time to talk to you this morning.
5 Please excuse her because she's been trying to talk to
6 everyone.

7 But it would seem to me, in response to that --
8 it's not an agenda item, and the Board can take no action
9 on it. I think that Ms. Stiner, in talking to me from the
10 staff, raised the fact that the staff is very concerned
11 about this and the issues that have been raised, and is
12 very sympathetic about this and the issues that have been
13 raised.

14 Her thought to me -- her comments to me were --
15 and I will let the public know this -- were that, you
16 know, she and her staff would like to look at this, they
17 would like to reevaluate this situation, and they would
18 like to see if there was some way -- or see what remedies
19 may be available to them, particularly after talking to
20 legal.

21 I do know we revised some of the policies with
22 regard to the HOME program this year. Whenever you have
23 revisions, they're obviously an attempt to react to public
24 suggestions before and make the program better. But it
25 does cause problems.

1 I also know that one issue the Board will
2 always be considering in this matter is an appeals
3 process, which we do not have in place, which, you know,
4 is an issue here when you run into things like this.

5 But Ms. Stiner wanted the opportunity, and
6 staff wanted the opportunity, to further address this back
7 to us at another meeting. And that seems to me to be a
8 very smart place for us to start on this particular issue.

9 I think the -- you know, and that gives us a
10 good place to start and to go from there. And then we can
11 see if it's something that does need to be put on the
12 Board agenda.

13 I will say this -- and this goes back to kind
14 of comment to our Legislature friends and to the Sunset
15 Commission. We've been instructed very carefully as a
16 Board to remember that there are Board functions and staff
17 functions. And this is a real area where we can get over
18 into the staff function in a hurry as a Board.

19 So we're obviously concerned about it. I think
20 we as a Board are obviously searching always to know
21 exactly what our correct role is. But I think that the
22 clear thing right now is that it would be really good for
23 the staff to relook at this and to comment back to us and
24 see if they don't have a solution to some of these
25 problems.

1 So does that kind of fairly describe where we
2 are?

3 MS. STINER: Very well, sir.

4 MR. JONES: Okay.

5 MS. STINER: Yes. Thank you.

6 MR. JONES: So that's fair. And, you know, it
7 may well be that this is something that staff's going to
8 be able to take care of completely. If not, the Board's
9 certainly going to be interested in hearing back as to
10 what's occurred and then determining if we have a role to
11 play. Thank you.

12 MR. BREWER: Mr. Chairman --

13 MR. JONES: Yes.

14 MR. BREWER: -- I have one question for you.
15 Do we -- this handout that we received, does that need
16 to -- although this is not on the agenda, should that be
17 mentioned for the record?

18 MR. JONES: That would be great. Are you
19 talking about the handout from Mr. Walthall?

20 MR. BREWER: Yes, sir.

21 MR. JONES: Okay. Yes. And I would let the
22 record reflect, at Mr. Brewer's suggestion, that each
23 Board member has been given a copy of Mr. Walthall's
24 memorandum dated July 11, 2001, which also brought up
25 concerns about the 2001 HOME application process. And

1 we've all reviewed that and considered it.

2 Anything further?

3 (No response.)

4 MR. JONES: All right. We will then turn to
5 the first action item on our agenda, which is the
6 presentation, discussion, and possible approval of the
7 minutes of the Board meeting of June 12, 2001.

8 JUDGE DAROSS: I move that the minutes of the
9 meeting be approved with one correction. Now, I know I'm
10 just an old country boy from west Texas, but I'm pretty
11 sure at the top of page 4, third paragraph, second line --
12 I'm pretty sure I didn't say that we have TDHCA staff work
13 closely wit [sic] the Governor's Office. And I'd like to
14 request that correction.

15 MR. JONES: I was there, and that's the way you
16 said it.

17 JUDGE DAROSS: Is that the way I said it?

18 MR. BREWER: Yes, I think -- that's what I
19 understood.

20 MR. JONES: Do we have a second?

21 MR. BREWER: I second.

22 MR. JONES: Okay. We have a motion made by Mr.
23 Daross, seconded by Mr. Brewer. Further discussion?

24 (No response.)

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

1 I assume we are.

2 All in favor of the motion, please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed say nay.

5 (No response.)

6 MR. JONES: The ayes have it. Next we have the
7 programmatic items. Mr. Brewer?

8 MR. BREWER: On the approval of policy on the
9 concentration issues for multi-family projects, we didn't
10 have a committee meeting this morning. I asked them to
11 bring it straight to the Board, and Tom Gouris is going to
12 make that presentation, I believe. Tom?

13 MR. GOURIS: Good morning, Board members.

14 MS. STINER: See, you'll be quoted in the
15 minutes.

16 MR. GOURIS: Yes, I know. My name is Tom
17 Gouris. I'm the director of the Credit Underwriting
18 Division for the Department of Housing and Community
19 Affairs.

20 This morning I'm presenting for your
21 consideration and approval the Department's proposed
22 concentration policy for multi-family housing. At the
23 risk of providing a presentation whose text is longer than
24 the policy itself, I'm going to give you a little brief --
25 hopefully brief -- background on where the policy has come

1 from and why it's being proposed today.

2 At the very end of the last year Congress
3 passed, and at the present, signed legislation that
4 increased the cap on tax credits and tax-exempt bonds.
5 While those -- that increase is staggered over the course
6 of a couple of years, it was -- the first portion of it is
7 effective January 1, 2001.

8 The effect of this increase, combined with the
9 developer -- development community's realization that the
10 extra boost in credits for projects in qualified census
11 tracts and difficult to develop areas are the only way,
12 absent additional soft financing, that they can make their
13 Tier I bond projects work.

14 And for benefit of all the Board members, Tier
15 I bond projects are projects that are rent restricted to
16 50 percent income level -- or rent level, I should say --
17 they're 50 percent income level. But their loans are
18 restricted.

19 And without the cash flow from the rents they
20 have to find other sources of financing. One source of
21 that financing -- the major source of that financing is
22 the boost they get in tax credits for developing in a
23 difficult to develop area or QCT area. They get 30
24 percent boost.

25 This raised concern in the industry and in the

1 Department that, for the first time in recent history, we
2 could have an oversaturation in certain pockets of the
3 larger metropolitan areas.

4 The tax credit program, through its QAP
5 process, has existing rules that allow it to consider
6 concentration before making an allocation. However, at
7 the beginning of the year we request several -- had
8 several requests from developers as to what specifically
9 would be the deciding factors or cutoffs that the
10 Department would use to make this concentration decision.

11 The timing and the immediate effect of the
12 legislation change has meant that the Department would not
13 be able to change its QAP rules to -- in time to ensure
14 even -- continued even distribution of funds.

15 So key staff met back in just January and
16 February to work out a draft policy. That policy was
17 presented to the Board in March. The Board took public
18 comment at that time, and then asked that we take the
19 policy through the public hearing process.

20 We held four meetings in April and May with
21 notice in the Texas Register prior to the meetings with
22 policy in place -- or the policy that was -- the draft
23 policy to be discussed.

24 Key staff also attended an industry-sponsored
25 round table meeting where it appeared, at least to me,

1 that much of the misgivings about the intent of the policy
2 were resolved and discussed thoroughly.

3 In addition, the Department received a number
4 of comments, and, of course, that correspondence. The
5 strongest of these comments discussed the need for a more
6 comprehensive goal-oriented policy regarding concentration
7 of affordable housing. Department staff agrees with these
8 comments and seeks to establish an ad hoc advisory group
9 of concerned parties to -- and staff to further discuss
10 these issues.

11 Some of these issues are setting more
12 comprehensive market study guidelines, statewide regional
13 market boundary definitions incorporating specific
14 location advantages to tenants in the policy, the
15 effects -- taking into account the effects of other non-
16 state funded housing, considering the impact of past
17 concentrations of housing, and to discuss fair housing and
18 how it may impact the policy, just in view of the
19 considerations we further discuss.

20 However, the limited scope policy that has been
21 provided for you today to consider needs to be implemented
22 as an interim measure. Without this interim measure we
23 will have unnecessary conflicts at Board meetings in
24 coming months that will position the staff's determination
25 regarding concentration against the developer's interest

1 after the developer has spent a considerable amount of
2 resources and is ready to close on his transaction.

3 This conflict can be significantly reduced
4 before developers have spent those resources with the
5 approval of this interim policy today.

6 Staff has identified several instances in the
7 very near future -- in fact, there are two that I know of
8 specifically with five major projects of which 1,000 units
9 of new affordable multi-family housing could be
10 independently brought before the Board through three
11 different programs and concentrated in the submarket.

12 All the concerned parties have indicated they
13 agree with the need for a concentration policy -- at least
14 to my knowledge they have. Staff has worked diligently to
15 incorporate the comments made in the proposed
16 concentration policy -- made into the -- the comments that
17 were made are incorporated into the policy that's before
18 you today.

19 We will begin work with an advisory group to
20 refine the policy as soon as one is established by the
21 Board of -- Executive Director. And therefore, we
22 recommend that the Board adopt the policy as proposed as
23 an interim measure. And I'll be happy to answer any of
24 your questions.

25 MR. JONES: Anybody have questions? I have a

1 comment, and would be curious to know what the other Board
2 members think about this. I've read the policy -- I've
3 read the comments we've gotten about it. And I know we
4 need to have a policy, and I know we need to move forward.

5 I do have a frustration. And it really is not
6 directed at staff at all, so please don't take this that
7 way. I desperately would like to work with the groups
8 that are right now complaining that they didn't have a
9 full opportunity to comment on this.

10 And I'm not casting aspersions at anybody that
11 we find ourselves in this situation, which we seem to find
12 ourselves in repeatedly, that Mr. Henneberger and Mr.
13 O'Conniff [phonetic] say didn't get enough notice of this,
14 need more time to look at this, I had strong thoughts
15 about this -- and their organizations that they represent.

16 I think I speak for all of us when I say that
17 we would desperately like to work with those
18 organizations, in that we have a hard function that we
19 need everybody on the same page. And it always depresses
20 me when we're not all on the same page and that we are not
21 all working together.

22 Would there be any harm in us -- we delayed it
23 for months, I know -- delaying it two more weeks to the
24 next Board meeting and going to those two individuals and
25 talking to them and their organizations to make sure we

1 have done everything we can to understand their positions,
2 to -- and I think we do understand their positions -- but
3 they couldn't be here today -- and make sure that we've
4 reached out, we've got them on board, we know what they're
5 talking about.

6 And I'm not saying we're giving them veto
7 [phonetic] or anything else. But I would just feel more
8 comfortable if we, as a Department, were doing everything
9 we could to make sure that people that want to be involved
10 are involved, particularly from those two groups that we
11 desperately want to work with.

12 Would that be a problem? Is there any problem
13 with us doing that?

14 MR. GOURIS: The only concern is that the -- is
15 the potential that developers will spend funds and be that
16 much more vested in a project --

17 MR. JONES: And the two weeks is critical?

18 MR. GOURIS: -- in the two weeks' time. I
19 don't know that the two weeks is critical. I can't say
20 that. I don't know how -- you know --

21 MR. BREWER: Well, what are the developers
22 saying? I mean, I can appreciate these two individuals
23 and what they represent. But what are the developers
24 saying that are directly affected by this also?

25 MR. GOURIS: To be perfectly frank, I think it

1 depends on where they stand in the pipeline of things.

2 And, you know, I think --

3 MR. JONES: There's not a uniform position.

4 MR. GOURIS: There's not -- I think their
5 uniform position is, Well, if it doesn't affect me, I
6 think it's a good idea.

7 MR. BREWER: Yes. Well, I think that's across
8 the board. I don't think it's just the developers. I
9 think it's all the groups.

10 MR. GOURIS: Right.

11 MR. BREWER: But I --

12 JUDGE DAROSS: It occurs to me that this -- I
13 mean, this obviously is going to affect future tax credit
14 rounds. If we adopt this concentration policy either
15 today or two weeks from today at our next meeting, what
16 effect is it going to have on the 2001 allocations?

17 MR. GOURIS: Well -- if I might answer that
18 also -- the QAP does have concentration concerns listed in
19 them. And those concentration concerns are consistent
20 with these. What's in this policy is a little bit more
21 detailed and gives specifics.

22 And we've been operating under, you know,
23 recognition of, you know, what is reasonable and operating
24 under guidelines that are pretty consistent with this
25 policy as far as the capture rate goes. So I don't

1 believe that there will be a significant impact on this
2 coming tax credit round.

3 That being said, not all the market
4 analysts that did market analyses for this tax credit
5 round fully took into account what they didn't know,
6 which, you know -- and so we've had to search out
7 through -- in the market studies that were provided to
8 search out information to make it be consistent but feel
9 like it --

10 JUDGE DAROSS: I mean, but if it is effective
11 as to 2001 round, and it has the effect of knocking out a
12 project because of the concentration issue, when
13 everything else has already been done --

14 MR. GOURIS: I think the concentration issues
15 that were already in place would have knocked it out.

16 MR. JONES: If I understand the judge -- I
17 mean, what he's saying is then we'd be better off doing it
18 after we got through this round at the end of maybe the
19 next meeting. That way we have no concerns in that area.

20 JUDGE DAROSS: Well, I mean, we could -- you
21 know, we could adopt it the next -- on the 31st, effective
22 a month later.

23 MR. JONES: Right.

24 VOICE: That's fine.

25 MR. BREWER: Well -- did you have something,

1 Chernov?

2 MR. NJIE: Well, I was here just in case a
3 question pops up.

4 MR. JONES: It's always nice to see you here.
5 I want you to know -- glad you came.

6 JUDGE DAROSS: Maybe you can give a more
7 specific answer to that -- to my last question. And that
8 is, if we were to adopt this concentration policy today,
9 would that affect any of the projects that are in the mill
10 for the 2001 allocation round?

11 MR. NJIE: No. I think this is primarily --
12 we've seen this exhibited primarily with the 4 percent tax
13 credits. Although the potential exists, as Tom indicated,
14 that in certain submarkets. But overall, for this 2001,
15 no.

16 One of the other things we consider, quite
17 apart from the concentration, is the geographic dispersion
18 of credits within this region. And we can do that by
19 other means as well.

20 MR. BREWER: But what impact will this
21 concentration policy have on -- when we look at HOME
22 program next month?

23 MR. GOURIS: The HOME program I don't believe
24 will be impacted, primarily because their funds are geared
25 toward non-participating jurisdictions, which are non-

1 metro areas. And so it's not as big an issue.

2 There are a couple of CHODOs that are applying
3 for rehabilitation projects -- actually, there's a -- they
4 are two separate things. But I don't think it will have
5 an impact on the HOME program. I do think it could have
6 an impact on the Housing Trust Fund program however.

7 JUDGE DAROSS: I'm developing a feeling that
8 if and when we do adopt a concentration policy it really
9 needs to be prospective only. And by that I mean
10 prospective as to projects that have not even started the
11 date that we enact it.

12 Because, otherwise, you're going to have
13 exactly the situation you describe where somebody's put
14 out a lot of money and then -- or comes our concentration
15 policy and knocks it out.

16 MR. GOURIS: And if I could just say one thing
17 about when our projects start. It's kind of -- some --
18 for some projects it's a very, very long process. For the
19 tax exempt bond program, that process started back last
20 September.

21 There are -- if we take the position that the
22 policy needed to be in place by September when they gave a
23 brief kind of gleam of a project and put their project in
24 the hat for the lottery -- haven't received a reservation
25 yet -- but potentially, could consider that as a start of

1 a process. They haven't spent a lot of money, but they
2 could consider that the start of the process.

3 That's -- you know, that is partly what we're
4 trying to correct in -- of events that are going to occur
5 in the coming months. They haven't really started
6 spending the money yet, but they may be in line for a
7 reservation.

8 And we're trying to take a proactive stand to
9 say, This is what we mean by concentration specifically so
10 that you don't go and spend a lot money and find out that
11 the Department wouldn't have approved it anyway. We're
12 trying to give them that direction. It's kind of like a
13 guidepost for them is what we're trying to do. But I do
14 understand that concern.

15 With the cycles being the way they are, it's
16 hard to get in front of everything when it's something
17 that -- when the ground rules have changed because
18 Congress increased the cap and other things have happened,
19 it's hard to get ahead of it all.

20 MR. JONES: Ms. Stiner?

21 MS. STINER: I don't have a comment.

22 MR. JONES: Okay. I hear no motions.

23 JUDGE DAROSS: Do we have to have a motion, or
24 can they just --

25 MR. JONES: We can --

1 JUDGE DAROSS: -- get back to us in two weeks?

2 MR. JONES: I think they can come back to us in
3 two weeks unless somebody makes a motion.

4 So I -- Ms. Stiner, can we put this on our
5 agenda in two weeks?

6 MS. STINER: Yes, sir.

7 MR. JONES: Thank you so much. Thank you, sir.
8 We appreciate all your hard work.

9 That will bring us to item 3 on our agenda,
10 which is the presentation, discussion, and possible
11 approval of the financial items. Ms. Stiner?

12 MS. STINER: Thank you, Mr. Jones. Who's doing
13 it? Oh, Stephen Apple from multi-family bond finance will
14 make the presentation for Cobb Park Townhouse Homes in
15 Fort Worth, Texas, who have made application for bonds
16 under our multi-family program.

17 MR. APPLE: Good morning. My name is Stephen
18 Apple. I'm the housing finance director --

19 JUDGE DAROSS: I'm sorry. My chair is broken,
20 and I'm trying to get this thing fixed.

21 MR. APPLE: Okay. I'll wait till you get
22 organized.

23 (Pause.)

24 MR. APPLE: The transaction before the Board
25 today is for the issuance of \$7.5 million in tax exempt

1 bonds and for \$285,000 in taxable bonds, the proceeds of
2 which will be used to finance the construction of the Cobb
3 Park Apartments, which is a 172-unit apartment complex in
4 Fort Worth, Texas. All the units in the project will be
5 offered at rents which will be affordable to households
6 earning 50 percent of area median income.

7 The tax exempt bond proceeds will carry an
8 interest rate of 7.9 percent until November 30, 2002,
9 where after, they will carry an interest rate of 7.4
10 percent. And the tax exempt bonds will mature on July 1,
11 2041. The taxable bonds will carry an interest rate of
12 9.5 percent and will mature on November 1, 2010.

13 The bonds will be purchased by Charter Mac, and
14 an interim letter of credit during the construction period
15 will be issued by First Union National Bank.

16 There was one error in the presentation package
17 that you all received under the compliance section. There
18 were four projects listed that the developer had completed
19 in the past through TDHCA. There were actually five. The
20 fifth project is the Treymore at McKinney [phonetic]
21 Apartments, and it was financed through the tax credit
22 program in 1997, and it has a compliance score of zero, so
23 it's not a substantial error.

24 And the developer is in the audience. The
25 developer is Joseph Kemp [phonetic]. And the general

1 contractor with the Discern [phonetic] Development
2 Corporation is here also if you all have any questions for
3 them. But -- and I'll be happy to answer any questions
4 you might have.

5 MR. JONES: Any questions?

6 Do we have a motion?

7 JUDGE DAROSS: I move that the recommendation
8 for issuance of 2001 private activity multi-family
9 mortgage revenue bonds for Cobb Park Apartments be
10 accepted as submitted by staff.

11 MS. STINER: The resolution?

12 MR. APPLE: Resolution number 22.

13 JUDGE DAROSS: 0122? All right. And that
14 Resolution 0122 be passed.

15 MR. JONES: We have a motion on the floor. Is
16 there a second?

17 MR. GONZALEZ: Second.

18 MR. JONES: Motion's been seconded by Mr.
19 Gonzalez, made by Mr. Daross. Discussion?

20 (Pause.)

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

23 I assume we are. All in favor of the motion,
24 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: The ayes have it. Thank you, sir.
5 Ms. Stiner?

6 MS. STINER: Thank you, Mr. Jones. Next on the
7 agenda we have the quarterly investment report. And the
8 CFO, Mr. Bill Dally, will be presenting that. Bill?

9 MR. DALLY: Good morning, Mr. Chairman, Board
10 members, Ms. Stiner.

11 MS. STINER: Good morning.

12 MR. DALLY: You'll find under item 3, Tab B,
13 the quarterly investment report for the third quarter
14 ending May 31, 2001.

15 It contains all the elements required by the
16 [indiscernible] Investment Act. And if you'll turn to
17 that third page you'll see a listing of all the security
18 types within in our portfolio.

19 And again, those are mortgage-backed securities
20 being the largest element -- guaranteed investment
21 contracts, investment agreements, money markets, treasury-
22 backed mutual funds, repurchase agreements, treasury bills
23 and treasury bonds and notes.

24 Overall, the portfolio increased a modest
25 amount. It went up about \$1.4 million, and it now stands

1 at a total of \$1,161,000,000. It consists of -- the
2 makeup is 67 percent mortgage-backed securities, 27
3 percent are the guaranteed investment contracts and
4 investment agreements, 4 percent repurchase agreements,
5 and 2 percent other.

6 Highlight of the activity were actually
7 purchases of \$30 million of mortgage-backed securities,
8 which represents -- those are the loans that we bought and
9 we will ration them and are now held in our portfolio as
10 mortgage-backed securities -- Fannie Maes and Ginnie Maes.
11 Those are at a pass-through rate of -- in a range between
12 5.35 percent and 6.45 percent.

13 We had two multi-family issues for a total of
14 \$22 million, which increased our multi-family funds.

15 Overall, in that last column you'll see that
16 the market value decreased \$4.3 million. This was due to
17 the increase in loan rates that occurred for the week
18 ending June 1. The average single family mortgage rate
19 was 7.24, which is a rise over what was at the beginning
20 of the quarter of 7.03. And thus the fair value has moved
21 down some compared with the beginning of the quarter.

22 And I want to go ahead and repeat this back for
23 you. The investments and the market values are going to
24 fluctuate from quarter to quarter, depending on what the
25 markets are doing. What is important about our portfolio

1 is that the cash flows are there to pay the debt service
2 on the debt that we've done. And those are all in place
3 and pay as planned.

4 And the reason that this report is rather
5 lengthy is it is a requirement [indiscernible] that
6 every -- each and every security and its maturities be
7 listed with rates. And that will conclude my report.
8 I'll take any questions you may have.

9 MR. JONES: Questions? This is a report, so I
10 don't think we have to take any action on it. Thank you,
11 sir.

12 MR. DALLY: Thank you.

13 MR. JONES: Appreciate it. This brings us to
14 item 4, the -- excuse me. Yes, that will be 5.

15 Mr. Brewer is going to submit as part of the
16 record an e-mail that we received from Mr. Henneberger.
17 And I'll give that to the reporter. That would be great.

18 All right. Which brings us to Item 4(a).

19 Ms. Stiner?

20 MS. STINER: Item 4(a) is approval of
21 determination notices. Cherno Njie, the manager of the
22 program, will come forward to seek approval of
23 determination notices for one development that we just --
24 the Board just approved. But the second development has
25 been pulled from the agenda. So he'll make the

1 presentation for 1(a) for Cobb Park Apartments.

2 MR. CHERNO: Yes. This is the Cobb Park
3 Apartments based in Fort Worth, project number 01426. We
4 are recommending an allocation of \$603,488 annually. The
5 project is comprised of 172 units, all of them
6 unrestricted. And then there are no concerns regarding
7 the developer's compliance experience with the Department.
8 The project is consistent with local planning.

9 And the recommendation is conditioned upon
10 three items -- the provision of supportive services. We
11 also have to get additional information regarding sidewalk
12 cost, and finally, other costs relating to providing
13 utilities to the property.

14 And the underwriting report recommends it, and
15 staff is recommending approval.

16 MR. BREWER: Mr. Chair, I recommend approval of
17 TDHCA number 01426, subject to the conditions as outlined
18 by staff.

19 JUDGE DAROSS: Second.

20 MR. JONES: We have a motion that's been made
21 by Mr. Brewer, seconded by Mr. Daross. Comments?
22 Questions? Discussion?

23 (No response.)

24 MR. JONES: Hearing none, are we ready to vote?
25 I assume we are. All in favor of the motion, please say

1 aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed, nay.

4 (No response.)

5 MR. JONES: The ayes have it. It's my
6 understanding that Blunn Creek Apartments has been
7 withdrawn?

8 MR. NJIE: That has been pulled for this month.
9 It will be coming next two weeks.

10 MR. JONES: Okay. Thank you. And that brings
11 us to item 4(b).

12 MS. STINER: Mr. Njie will continue. We have a
13 couple of other items relative to the taxpayer program.
14 Mr. Njie?

15 MR. NJIE: Yes. The first one concerns an
16 extension to complete a project for a 1999 allocation here
17 in Austin, Texas. This is a 230-unit project that is
18 under construction in William Cannon Drive in Austin.

19 I have visited the site myself. It is well
20 ahead in the framing stage. They've had to redesign the
21 project and had some delays in that redesign process
22 working out building permits with the City of Austin.

23 We request -- and I request -- and are
24 recommending that the completion date be extended to
25 December 31 as provided under federal law.

1 JUDGE DAROSS: I move that the request for
2 extension be granted.

3 MR. BOGANY: Second.

4 MR. JONES: The motion's been made by Mr.
5 Daross, seconded by Mr. Bogany. Discussion? Comments?
6 Questions? Ideas?

7 (No response.)

8 MR. JONES: Hearing none, I assume we're ready
9 to vote. 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: The ayes have it. 4(c).

15 MR. CHERNO: The second project is also an
16 extension request to close a construction loan for the
17 project in Del Rio. This one was afforded an extension
18 earlier -- I believe last month -- by the Board. They
19 wanted additional time to close the construction loan.
20 They are also under consideration for additional credits
21 in this 2001 allocation round.

22 And the project is in Del Rio. There have been
23 significant changes in the development team for this
24 property that has led to some of the delays. And we are
25 recommending an extension up to October 1.

1 MR. BREWER: I make a motion that we grant the
2 extension.

3 MR. GONZALEZ: Second.

4 MR. JONES: We have a motion made by Mr. Brewer
5 and seconded by Mr. Gonzalez. Further discussions?

6 (No response.)

7 MR. JONES: Hearing none, I assume we're ready
8 to vote. All in favor of the motion, please say aye.

9 (A chorus of ayes.)

10 MR. JONES: All opposed, nay.

11 (No response.)

12 MR. JONES: The ayes have it. Executive
13 Director's report.

14 MS. STINER: Thank you, Mr. Njie. Thank you,
15 Mr. Chair. There are just a couple of things that I'd
16 like to call your attention to.

17 I thought we were going to do something with
18 Mr. Johnson on the single-family issue. But let me move
19 forward very quickly so that we could --

20 MR. JONES: Did I leave something out?

21 MS. STINER: No, sir.

22 MR. JONES: Okay.

23 JUDGE DAROSS: Moving right along.

24 MS. STINER: Huh?

25 JUDGE DAROSS: Excuse me. Moving right along.

1 MS. STINER: Moving right along. Just as an
2 update, we came to the Board several months ago
3 on authority to request a waiver in our capital budget for
4 our building configuration because we had to conform with
5 some requirements of GSC in terms of the space allocation
6 for staff.

7 Because we have so many things still pending
8 relative to how the Department's finally going to be
9 structured and aligned after the provisions of a couple of
10 deals that were approved in the -- this past Legislature,
11 particularly S.B. 322, which is our Sunset Bill and H.B.
12 7, which transfers the CDBG division to a new office, we
13 have submitted a waiver to GSC -- a request to waive the
14 153 square foot requirement until we could have some of
15 these questions answered.

16 So, just as a bit of information, we are hoping
17 that we'll hear something from them that will allow us to
18 stay in place until all of those questions have been
19 answered relative to what -- whether the division of CDBG
20 will remain in -- at 501 Sabine and enter into a sublease
21 with us.

22 So there are still a lot of variables that need
23 to be answered. As I think you will remember, when we
24 were making this presentation, we presented to you so many
25 scenarios we probably confused you more than anything

1 else. But, just so that you will know, that's where we
2 are on that particular request.

3 Secondly, at one of our last meetings, we
4 committed to you to give you a summary of the legislation
5 that was passed that impacted TDHCA -- Michael Lyttle, who
6 is our director of communications. If you haven't got it
7 in the mail you soon will be receiving an analysis of 322
8 that's been prepared by our legal division.

9 We have met with the Governor's Office and --
10 on laying out a preliminary schedule on where we are with
11 the implementation of S.B. 322. We are improving on that
12 schedule based on some comments we've gotten back from
13 them and just from our own evaluation of that. So we will
14 be forwarding that schedule to you.

15 One critical event on that schedule will be a
16 two-day work session by the staff in August -- August 9
17 and 10 -- to come up with a draft strategic plan to
18 present to the Board for consideration. So we will
19 forward that to you under separate cover in terms of
20 those -- the time line and those events and that schedule
21 for implementation of S.B. 322. Thirdly --

22 MR. JONES: To leave [phonetic] that, can I ask
23 a couple of questions?

24 MS. STINER: Yes, sir.

25 MR. JONES: Who are you working with on the

1 Governor's staff?

2 MS. STINER: We met with Paul Hudson and we met
3 with Danette Rich.

4 MR. JONES: Could you bring all the Board
5 members -- and I don't want you to do it now -- but
6 just -- I know you're going to give us a summary for that,
7 but could you kind of bring us up to date, maybe in a
8 short letter, of what's going on with the Governor's
9 Office and what kind of input you all have gotten from
10 them and where that all stands --

11 MS. STINER: Yes, sir.

12 MR. JONES: -- in a little more detail?

13 MS. STINER: Be happy to. The third thing we
14 have to bring to your attention is, also, that schedule
15 that I will send you, you'll see on that, pursuant to the
16 requirements of S.B. 322, we have to begin development of
17 the QAP under the tax credit program fairly earlier than
18 the Board is used to seeing.

19 So we have a proposed time line for the 2002
20 tax credit cycle. We haven't considered the 2001. But
21 because of some timing elements, we intend to hold --
22 start holding roundtable meetings with various players in
23 that process starting July 26, which is before this body
24 meets again. So we have a schedule here for you.

25 But beginning July 26, we will be meeting with

1 a roundtable of syndicators and lenders; July 27, a
2 roundtable of market analysts and appraisers; August 1, a
3 roundtable of developers and advocates; and then an open
4 forum on August 6.

5 The deadline for submitting the QAP this year
6 to the Texas Register is September 7. So that's a little
7 accelerated schedule than this body is used to dealing
8 with. But we will -- this is available on our website at
9 TDHCA, but we will be forwarding this to you. We
10 certainly would make sure that there's adequate public
11 notice of all of these meetings and invite the public to
12 come in and be a part of the process.

13 Byron, did you want to make a brief
14 presentation -- a status update on 57?

15 MR. JOHNSON: Sure.

16 MS. STINER: Okay. That concludes --

17 MR. JONES: I think, too -- you know, one of
18 the things I think the staff needs to remember, too, when
19 we talk about this legislation, as we talk about going
20 forward with these programs, is the legislation does
21 provide -- because it's more than just viewed. I think
22 they provide that there will be a new board in place. So
23 there needs to be a consideration, too, on how you're
24 going to move forward with a new board -- and obviously
25 move forward very quickly.

1 MS. STINER: Yes, sir.

2 MR. JONES: So I kind of also remind you, you
3 ought to keep that in mind.

4 MS. STINER: Yes, sir. Thank you. As Byron is
5 coming forward, I would also just like -- why don't you go
6 ahead and I'll do a wrap up of this.

7 MR. JOHNSON: Good morning, Mr. Chairman,
8 members, Ms. Stiner.

9 MS. STINER: Good morning.

10 MR. JOHNSON: Let's call this -- title this a
11 steep yield curve plus no money equals a complex buying
12 structure. Right now we're in a --

13 JUDGE DAROSS: Chapter 2, I think.

14 MR. JOHNSON: Right now we're in a very
15 difficult market, as we have outlined previously. And
16 we're battling this thing called negative arbitrage.
17 That's an economic cost. And on a \$65 million average
18 balance over one year, negative arbitrage in the current
19 market will cost us about \$80,000 a month carrying cost --
20 in carrying cost.

21 So what bond finance and single-family lending
22 and our bond counsel, underwriter and financial advisor
23 have come up with is an approach that encompasses
24 convertible option bonds and what we refer to as a note
25 optimization strategy.

1 What this would do is minimize negative
2 arbitrage as much as we can and also reduce another
3 economic cost called yield drag. And we will explain
4 these concepts when we come before you next month in
5 further detail.

6 But what we've done is taken our standard one
7 issue transaction, where the Department historically has
8 done one issue a year. We've taken that, and we're going
9 to break it up into a convertible option bond transaction
10 where we do two issues.

11 Now, what we're going to do to further minimize
12 our cost is break it down even further into like maybe
13 three issues. It is something that the Department hasn't
14 done before, but it's a combination of a whole lot of
15 somewhat simple transactions. But they're just grouped
16 together to make, you know, the overall impact on the
17 Department less in the current economic environment.

18 On the program side, we're taking steps to
19 minimize the time it takes to get the mortgages funded and
20 closed. And we will discuss that in further detail with
21 you also next month.

22 We anticipate bringing the transaction to you
23 for approval in August, and we anticipate pricing in
24 September. And because of the complexity of the
25 transaction, we may have two pricings in September. And

1 then we'll anticipate closing in October. I'd entertain
2 any questions if you have any.

3 MR. JONES: Questions? Comments? Thank you,
4 sir.

5 MR. JOHNSON: Thank you.

6 MR. JONES: Appreciate it.

7 MS. STINER: Thank you, Mr. Johnson. That
8 concludes our report, Mr. Chair.

9 MR. JONES: Thank you. All right. Just in
10 time. Perfect timing. Mr. Walker's here. All right. I
11 think the next thing on our item would be our executive
12 session. Is that correct?

13 MS. STINER: Yes, sir.

14 (Off the record.)

15 MR. JONES: The Board of Directors has
16 concluded its executive session in the Texas Department of
17 Housing and Community Affairs on July 12, 2001, at 11:20
18 a.m.

19 The -- I hereby certify that the agenda which
20 showed that the matters we discussed were personnel
21 matters -- action taken, none; consultation with attorneys
22 concerning pending litigation of Cause Number 98-11816,
23 Hershel Blankenship, et al., v. Texas Department of
24 Housing and Community Affairs in the 53rd Judicial
25 District Court of Travis County in the Mitchell suit --

1 action taken, none.

2 I hereby certify that this agenda of the
3 executive session of the Texas Department of Housing and
4 Community Affairs was properly authorized pursuant to
5 Section 551.103 of the Texas Government Code, posted in
6 the Secretary of State's Office seven days prior to
7 meeting pursuant to 551.044 of the Texas Government Code,
8 and that all members of the Board of Directors were
9 present, with the exception of Norberto Salinas, Kent
10 Conine, Lydia Saenz, and Marsha Williams, and that this is
11 a true and correct record of the proceedings pursuant to
12 the Texas Open Meetings Act, Chapter 551, Texas Government
13 Code, signed by Mr. Michael E. Jones. And we're
14 adjourned.

15 MR. GONZALEZ: You want to make a motion to
16 that effect?

17 MR. JONES: Go ahead.

18 MR. GONZALEZ: So moved.

19 MR. JONES: We have a motion to that effect.
20 Do we have a second?

21 MR. BREWER: Second.

22 MR. JONES: All in favor say aye.

23 (A chorus of ayes.)

24 (Whereupon, at 11:25 a.m., the meeting was
25 concluded.)

C E R T I F I C A T E

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MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 12, 2001

I do hereby certify that the foregoing pages, numbers 1 through 48, 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.

07/16/01
(Transcriber) (Date)

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