

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

BOARD MEETING

11:30 a.m.
Thursday,
March 13, 2003

Room 437
Waller Creek Office Building
507 Sabine Street
Austin, Texas 78701

PRESENT:

TDHCA BOARD:

Michael Jones, Chairman
C. Kent Conine, Vice Chairman
Vidal Gonzalez
Elizabeth Anderson
Norberto Salinas
Shadrick Bogany (not present)

TDHCA STAFF:

Edwina Carrington, Executive Director
Tom Gouris
David Gaines
Robert Onion
Ruth Cedillo
Brooke Boston
Eddie Fariss

ON THE RECORD REPORTING
(512) 450-0342

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1
2 CHAIRMAN JONES: I would now call to order the
3 Board Meeting of the Texas Department of Housing and
4 Community Affairs for March 13, 2003. The first order of
5 business is to certify a quorum. Ms. Anderson?

6 MS. ANDERSON: Here.

7 CHAIRMAN JONES: Mr. Bogany is absent.

8 Mr. Conine?

9 MR. CONINE: Here.

10 CHAIRMAN JONES: Mr. Gonzalez.

11 MR. GONZALEZ: Here.

12 CHAIRMAN JONES: Mayor Salinas?

13 MR. SALINAS: Here.

14 CHAIRMAN JONES: And Mr. Jones is here. We do
15 have a quorum.

16 Our next order of business will be public
17 comment. We have a number of people that wish to speak to
18 us today. And due to the number of people that wish to
19 speak to us, we will have to impose a time limit, unless
20 the board members feel otherwise. And that will be a
21 three-minute time limit.

22 The first speaker I have is Ms. May Walker.
23 You didn't want to be first? Excuse me. I apologize.

24 MS. WALKER: Good morning.

25 CHAIRMAN JONES: Good morning.

1 MS. WALKER: I want to thank your for giving me
2 the opportunity to speak again. The most important point
3 that I would like to make is that the Brentwood
4 subdivision area is overconcentrated with tax credited and
5 low income apartments and homes.

6 Of course, you are aware from the last meeting,
7 of the Aristocrats, now the Palomino Apartments, that are
8 a tax credited unit with some low income families that sit
9 right across from the Brentwood subdivision.

10 As I've stated, there is enough tax credit and
11 low income units in our area. We have been overextended.

12 Plus, we have many reasonably priced apartments in the
13 area on Scott Street, Reed Road, Main Street. There are
14 many apartments that are not fully occupied.

15 We've heard that the Washburn Group has someone
16 trying to pass petitions to support their project in
17 Glenwood Ares subdivision. If Glenwood Ares subdivision
18 wants that project, we do not object. We are talking
19 about Brentwood subdivision.

20 I hope you would bear with me. Due to the time
21 factor, we were not able to raise the money for a market
22 study. So we went out and physically gathered this
23 information. Just one-fourth of a mile in walking
24 distance of our subdivision on West Orem, there is a large
25 area of tax credit and low income rental houses.

1 Just down the street on West Airport, across
2 from Hiram Clark, we have the -- a Cambridge Village
3 Apartment that is tax credit, with some low income houses
4 and HUD Program, and not fully occupied.

5 Then on Main Street, about a mile away, we have
6 the Bartel Condos that are reasonably-priced, that are not
7 fully occupied. All up and down 288, about a mile and a
8 half from our location, we have many units that are tax
9 credited and low income, and some HUD properties.

10 And the Chateau Village on West Fuquay, just
11 1.6 miles from Brentwood, which is only 80 percent
12 occupied. Please don't forget about the Aristocrat, now
13 the Palomino Apartments, just across the street from us.
14 It's a tax credited with some low income residents, and is
15 only 70 percent occupied.

16 We are well aware that a few tax credited and
17 low income units will not lower our property value. And
18 we want you to understand that we are not against low
19 income families, because if you notice, the majority of
20 the Brentwood community are senior citizens. We're on a
21 fixed income that would be considered low income.

22 But you know there has been studies that show
23 if there is a concentration in one area, property value
24 will be lowered. We know that some of the units are not
25 fully occupied. If this unit is built next door to a unit

1 that is not fully occupied, that will result in some of
2 those residents moving to the newer unit, causing the
3 older unit to deteriorate more due to the lack of
4 residents.

5 We are not opposed to single-family houses.
6 Adjoining the Palomino Apartments on the southeast side of
7 Brentwood subdivision, there is Mr. Harry Reed, a
8 developer who would be building single-family houses which
9 would be called the Brentwood Park. Construction will
10 begin in October.

11 Then on the northeast corner of Hiram Clark and
12 West Airport, there is Mr. Walter Scarborough, a developer
13 who has his plans all ready to begin building single
14 family houses. This area will be called Brentwood
15 Village.

16 As I have pointed out, we have many tax
17 credited low income affordable apartments and houses all
18 around us in a one-mile radius. And many are not fully
19 occupied. I hope you can agree with us. I hope you can
20 agree with me that there is no need for additional units
21 within this one-mile radius. I'm just talking about this
22 one-mile radius.

23 I appeal to you. If you felt that there was no
24 need for more tax credit and low income projects in Katy
25 and West Houston, why would you want to place them in our

1 neighborhood, where we are already overconcentrated? In
2 the southwest part of Houston, and in the Hiram Clark
3 area, there are a number of areas that need and can
4 accommodate this type of project, and we hope you will
5 please consider that and support your previous vote to not
6 allow this project in our community. Thank you so much.

7 CHAIRMAN JONES: Thank you, ma'am.

8 Any questions? Thank you.

9 Ms. Margie Taylor.

10 MS. TAYLOR: Good morning. I'm Margie Taylor,
11 the -- district chairperson for the Hiram Clark Civic
12 Club.

13 I'm here to talk to you mostly about our
14 schools in the area that the children from the Enclave
15 Apartment will be going to. These schools are Hobby,
16 Dowling and Madison. In your handout there, you have
17 something from the Houston Independent School District,
18 where Mr. Warner Irvin is the superintendent there.

19 He also gave to you the core capacity of these
20 schools and the total capacity of the schools. Now, the
21 core capacity at Hobby when it was built -- that's the
22 main building, was to house 576 students. It now has 900,
23 with about nine temporary buildings.

24 The Dowling Middle School was to have 1,680
25 students, the main building. It now has 1,745. Hobby and

1 Madison was to house 1,936 students, the main building.
2 It now have about six or seven temporary buildings,
3 because now its enrollment is 2,090. They are now trying
4 to get another temporary house because it is over the
5 capacity for what it's supposed to be.

6 But if, with the 93 homes that's going to be
7 built the start of this October, you can imagine what kind
8 of enrollment we will have at these schools.

9 However, some of these people may be able to
10 take their kids to private schools. But with the Enclave
11 apartments, we doubt that there would be any to go to
12 private schools, since it's a low income facility.

13 Now, the school at Madison is a magnet school.

14 It's a meteorology school. So we get kids bused in from
15 other neighborhoods who wants to take that special course,
16 which will add to the crowdedness of the school.

17 So with the addition of 200 units, I think it would place
18 a burden on our schools. So we ask you to protect our
19 neighborhood and school

20 We have a stable neighborhood. Our seniors are
21 all -- most of the neighbors in Brentwood have been there
22 20 to 30 years. And if it becomes concentrated with
23 apartments, we're afraid we'll start having people to move
24 out. And the longer people stay in the neighborhood, the
25 more stable the neighborhood is.

1 Now, when you start on moving, you get somebody
2 in, and everybody got to learn the new deed restriction
3 and rule, and it's a big fight to keep the neighborhood
4 up. So I'm asking you to understand -- we understand that
5 Mr. Washburn wants to develop his property. But I hope he
6 understands that we're trying to protect our investment.

7 There are 768 houses in the Brentwood
8 subdivision. They are now selling between 80 and
9 \$100,000 -- \$107,000 was the last one. So if you multiply
10 that 768 homes by 80 or \$107,000, you will see that we
11 have quite an investment to protect also. So we are
12 asking you to help us protect our investment. We need to.

13 Thank you.

14 CHAIRMAN JONES: Thank you. Any questions?

15 (No response.)

16 CHAIRMAN JONES: Mr. Roland Brown.

17 MR. BROWN: Good morning.

18 CHAIRMAN JONES: Good morning.

19 MR. BROWN: The facts that I would present will
20 give some idea of the impact that a new apartment complex
21 will have upon the traffic and the drainage in the area in
22 which we live, which is the Brentwood subdivision.

23 The street on which the apartments will be
24 built is the main thoroughfare into a neighborhood. West
25 Airport provides access into the Brentwood subdivision,

1 and it also provides access to the now Aristocrat
2 Apartments, or the Palomino Apartments.

3 There are 768 homes in the Brentwood
4 subdivision, and 272 units in the Palomino apartment
5 complex. The 200-unit apartment complex proposed by
6 Enclave Housing is to be built on West Airport, on the
7 east side of the present 272-unit complex, where Airport
8 comes to a dead end.

9 According to our city planning committee, there
10 are no plans to extend West Airport eastward in the near
11 future, which means that there will only be one way in and
12 one way out of the new apartment complex, that is, if it's
13 approved.

14 Hiram Clark -- it intersects with West Airport.
15 It is a main thoroughfare. And on this corner where the
16 intersection takes place, we've had many accidents to
17 occur there because of the busy intersection and the heavy
18 traffic that's in this freeway,

19 West Airport at Glenwood, which is about a
20 block off of Hiram Clark is a bus pickup point for school
21 children, and additional traffic in this area would
22 present a risk for all the school children.

23 As far as the drainage is concerned, as I said
24 earlier, West Airport dead-ends about two blocks beyond
25 the Aristocrat Apartments. At the part where the

1 barricade is built, water stands at this point all of the
2 time right now, by the barricade. And beyond the
3 barricade, about two city blocks, I suppose, is where they
4 propose to build these new apartments.

5 And if water is standing there now, the
6 thinking is that there will be flooding with the addition
7 of -- added to the drainage system that's already there.
8 Thank you very much.

9 CHAIRMAN JONES: Thank you, sir. Any
10 questions?

11 (No response.)

12 CHAIRMAN JONES: Mr. Dawson? David Dawson.
13 Good morning.

14 MR. DAWSON: Good morning. My name is David
15 Dawson. And I'm with the law firm of Akin, Gump, Strauss,
16 Hauer and Feld. And we represent Enclave Housing on this
17 appeal matter.

18 We have four representatives who would like to
19 testify in favor of this project today. They are -- at
20 least the way we did this at the appeals hearing --

21 CHAIRMAN JONES: That would be fine.

22 MR. DAWSON: -- was in order of Charles, Jim,
23 Lisa and then myself. If we can take that order, that
24 would be appreciated.

25 CHAIRMAN JONES: That would be great. Just --

1 I'll just kind of turn that over to you, Mr. Dawson.

2 MR. DAWSON: Sure.

3 CHAIRMAN JONES: I would also just say this.
4 And you can handle it any way you want to. Obviously, I
5 think the other two board members were in the audience
6 when you all made your previous presentation. You just
7 might keep that in mind as you make your next
8 presentation. Thank you, sir.

9 MR. DAWSON: We certainly will. Thank you.

10 MR. C. WASHBURN: I'll be brief. Okay. I
11 don't want to repeat myself either. Sir, I had to finally
12 tell you that I lost probably two minutes, because they
13 don't want me talking without pages. I'm getting too old,
14 you know, and I forget everything. I'm elderly also.

15 My name is Charles Washburn. I'd like to thank
16 the board for the opportunity to speak here today. And
17 I'm speaking in support of affordable housing in general,
18 and I'm speaking in support, particularly, for Enclave at
19 Airport.

20 Our goal with this property was to build an
21 upscale affordable apartment community of 200 units, one,
22 two and three bedrooms, and to provide safe and attractive
23 and decent housing to those that can't afford to go to a
24 market unit.

25 We have a lot of -- I'm not going to get into

1 a -- it's low density. I've already told the board that.
2 It's only 13 units to the acre. The whole thing is going
3 to be perimeter-fenced for all residents' safety with
4 access gates.

5 We'll have a lovely clubhouse with -- that I've
6 described before, that had a lot of amenities, including
7 educational and computer facilities. And we intend to run
8 classes out of there. And we'd like to do community
9 activities out of there as well, and have -- and a
10 numerous other projects that we have.

11 The apartments themselves are spacious. Is
12 there anybody that didn't hear this before? Did you -- do
13 I need to go -- I mean, you know, you --

14 MR. CONINE: I've heard it.

15 MR. C. WASHBURN: You've heard it. Okay. All
16 right. Well, I'm going to cut it real short, then, and
17 just say that lastly but not least, I believe this was
18 summed up best by an opponent of the -- at the TEFRA
19 hearing, who -- and I quote her directly. "We like where
20 we live because it is convenient." We like that for our
21 tenants also.

22 "It is close to the medical center, close to a
23 lot of city services. It's close to the museum district.
24 It is close to our church and a hospital. It is close to
25 shopping areas. And we like where we live. I don't want

1 to move far out." Thank you, gentlemen.

2 CHAIRMAN JONES: Could I ask you a question,
3 Mr. Washburn, if I may?

4 MR. C. WASHBURN: Yes.

5 CHAIRMAN JONES: One issue that comes up, or
6 that has been made is that, you know, you've spent so much
7 money in this before you knew there was any opposition.
8 Right. When was the first time you sought out community
9 members and tried to get their opinions on this?

10 MR. C. WASHBURN: Very early.

11 CHAIRMAN JONES: Okay.

12 MR. C. WASHBURN: Very early.

13 CHAIRMAN JONES: And when would that be,
14 exactly?

15 MR. C. WASHBURN: And we knew we would have
16 opposition, not --

17 CHAIRMAN JONES: And you went ahead in the face
18 of the opposition?

19 MR. C. WASHBURN: Well, we -- yes, we --
20 because we were told by people that it wasn't that heavy
21 an -- and they mentioned Glenn Ares. If you look over
22 here, Glenn Ares is just about as close as they are to us.
23 Have to get oriented here. Right?

24 Yes. This is Glenwood. This is Glenn Ares.
25 They were supposed to extend Buffalo Speedway, and also

1 West Airport in there. And they were certainly -- we've
2 been told by City Planning sometime around 2005.

3 CHAIRMAN JONES: But I guess, going back to my
4 question --

5 MR. C. WASHBURN: Yes?

6 CHAIRMAN JONES: My question to you, simply --
7 really early on in the process, you knew you had public
8 opposition --

9 MR. C. WASHBURN: We had some -- we had some
10 opposition. We worked with the civic club. We took
11 everybody in the civic club around and showed them our
12 9 percent and 4 percent tax -- or -- they're all 9 percent
13 deals that we had. And we took them to some other 4
14 percent.

15 We worked with them from the beginning. We
16 thought we'd quelled a lot of the opposition. We didn't
17 realize there was going to -- that was after the TEFRA
18 hearing, that we were going to have so much opposition as
19 we came up to review the board.

20 CHAIRMAN JONES: Obviously --

21 MR. C. WASHBURN: And also we had been told by
22 other people -- the officials and other people they
23 weren't going to oppose this at all.

24 CHAIRMAN JONES: Well, and then you bring up
25 another point, and I hesitate to even bring it up for fear

1 that I might be misquoted. But at this point in time,
2 there is actually opposition that's come to us from civic
3 leaders. Correct? I mean, there are letters, which we
4 didn't have before.

5 Before, you had indicated that you didn't think
6 the civic leaders -- and again, I'm not quoting you here,
7 but I'm recalling testimony from the for side to the
8 extent of, Well, you know how community leaders are. They
9 won't, you know, get out in front of this issue. It's too
10 political.

11 MR. C. WASHBURN: Well, let me say that we were
12 told in private -- you know --

13 CHAIRMAN JONES: They didn't have the guts to
14 do it?

15 MR. C. WASHBURN: -- they didn't have a
16 problem, and they think we ought to go forward doing it.

17 CHAIRMAN JONES: Okay.

18 MR. C. WASHBURN: Now, this was a private
19 conversation I had, no proof of that.

20 CHAIRMAN JONES: Sure.

21 MR. C. WASHBURN: But that was told to us then.
22 We thought that everything would be okay, basically. We
23 felt we -- well, we know we have a beautiful project. We
24 know it's going to be an asset to the community.

25 Sometimes there --

1 CHAIRMAN JONES: Well, obviously there's some
2 disagreement over that. But you have -- let me ask you
3 this. With regard to the acceptability of this particular
4 site, I mean, obviously, you've heard with me serious
5 community concerns. Right?

6 MR. C. WASHBURN: I've heard that. Yes, sir.

7 CHAIRMAN JONES: Now, would you agree with me
8 that all of these people are not just, quote unquote,
9 NIMBYs. You would agree with that, wouldn't you? That
10 they have logical, sound concerns?

11 MR. C. WASHBURN: Well, yes, sir. Some of them
12 are logical and sound, and some of them may not be. For
13 instance, the flooding issue. We're not in a floodplain.
14 And there is no flooding issue over there.

15 We've talked to the engineering, the City of
16 Houston have confirmed that. And I'm sure when we build
17 this apartment community, that we'll cure the drainage
18 problem that may very well be there because there's no
19 development there. It's just stops.

20 I don't know. They may have improper -- it
21 could even be clogged up storm sewers, because it has
22 storm sewers there into that drainage ditch. But --

23 CHAIRMAN JONES: Again, back to my question,
24 though. I mean, you would agree with me that, you know,
25 these citizens have voiced concerns. Right?

1 MR. C. WASHBURN: Right. Yes, sir.

2 CHAIRMAN JONES: And they certainly -- you
3 understood it was going to be public hearing, whenever
4 this came up for final approval before this board. You
5 always understood there would be that process. Right?

6 MR. C. WASHBURN: Yes, sir. We did.

7 CHAIRMAN JONES: And you understood that they
8 would be able to provide those concerns to us?

9 MR. C. WASHBURN: Absolutely.

10 CHAIRMAN JONES: And you understand that we're
11 required by law to listen to them?

12 MR. C. WASHBURN: Yes, sir. I do.

13 CHAIRMAN JONES: And you understand that those
14 concerns would deal with all different types of aspects of
15 the issue of the acceptability of this site. Right, sir?

16 MR. C. WASHBURN: Well, it's proven that way.
17 Yes, sir.

18 CHAIRMAN JONES: Okay. And that's certainly
19 something that's known from the beginning of the process.
20 Right, sir?

21 MR. C. WASHBURN: Yes.

22 CHAIRMAN JONES: Okay. Thank you, sir. I
23 appreciate that. That's all the questions I had.

24 MR. SALINAS: This member -- council member,
25 District 7 -- is your project in District 7? In Houston?

1 MR. C. WASHBURN: District 7? I assume -- who
2 are we talking about?

3 MR. SALINAS: The city councilman that sent us
4 a letter that he's against this project.

5 MR. C. WASHBURN: I have -- no, I don't believe
6 so. I think it's in Ada Edwards's.

7 MR. SALINAS: Yes, Ada Edwards. And she sent
8 us a letter that he -- it says, "He respectfully wants us
9 to oppose this project." You might want a copy of this
10 letter. And I'm --

11 MR. C. WASHBURN: Well, that's fine. We'll
12 take a copy. But like I said, we have conversations
13 before, and she didn't. And she had been approached.

14 MR. SALINAS: It's a she? It's a she?

15 MR. C. WASHBURN: It's a she. Ada Edwards, I
16 believe, was a she. I've never met her. Jim knows her,
17 and she talked to -- in fact, he's the one that had the
18 conversation with her. It'd probably be best to ask him
19 when he gets up here.

20 MR. SALINAS: She says, "I support the
21 committee's original vote against this project. And ask
22 that the committee oppose this appeal on the grounds that
23 there has been no material changes in the conditions
24 associated with the project." We do have a change. We
25 don't have Mr. Bogany here from Houston to represent you.

1 So this is a letter from this lady, or I
2 thought he was a he. A-D-A Edwards is opposing this
3 project.

4 MR. C. WASHBURN: Uh-huh.

5 MR. SALINAS: One of the other things is that
6 your attorney said that we should not listen to anybody
7 else about the rules. We should have sent that to the
8 people that were going to drive all the way to Houston
9 over here, that their objections were not going to be
10 considered.

11 MR. C. WASHBURN: Well, I don't think he was
12 saying that. I think he was saying that you needed to
13 listen to public opposition with the rules in mind.

14 MR. SALINAS: But what I've been told, and I
15 understand this, well, you can listen all you want to, but
16 you know, you have to follow our rules. Now, is that
17 correct? Where is the legal counsel?

18 I mean, if that's going to be the case, then we
19 should not ask anybody to come and have public hearings in
20 our buildings, or have public hearings in Houston. Who
21 held the public hearing in Houston for this project?
22 Where is the employee?

23 MR. C. WASHBURN: We held a TEFRA hearing, sir.

24 MR. SALINAS: Who was there from our agency?

25 MR. C. WASHBURN: Was Ms. Carrington there?

1 I'm --

2 MS. CARRINGTON: No, it was Robert Onion.
3 Robert, were you there?

4 MR. SALINAS: What's the meaning of having a
5 public hearing if it's not going to be making a
6 difference? Public hearing is to have input from the
7 community, right?

8 MR. ONION: Yes, sir.

9 MR. SALINAS: Okay.

10 MR. C. WASHBURN: Well, we didn't take their
11 comments lightly, Mayor Salinas. We actually went around
12 and tried to quell their concerns by taking them around
13 and showing them what we built. Most of the concerns at
14 first was that it was not going to be what it -- what we
15 built, you know.

16 It wasn't going to -- it's -- they're comparing
17 old 30-year-old HUD Section 8 projects with our former
18 communities that we built, and they're not the same
19 animal. They're completely -- and you know that.

20 MR. SALINAS: Yes. I understand. But we
21 have -- we can't be compared -- not even South Texas can
22 be compared to Houston, because we have --

23 And we have people that serve in those
24 public --

25 MR. C. WASHBURN: Sir, I have no way of

1 controlling Houston zoning.

2 MR. SALINAS: I understand that. But you're
3 alleging in this petition that you asked for us to go
4 ahead and continue us. That I am the one, I guess -- that
5 says statement of Mr. Salinas. I really want you to
6 understand that I would support the project if only the
7 whole neighborhood could be in -- content.

8 One of the problems is that what I'm here --
9 told here by you, is saying that I should not listen to
10 anybody else but the rules here that we have in the
11 Housing Agency. And I don't think that's fair.

12 So if we are going to be dealing with those
13 kind of rules, then we should tell these people to stay
14 home, and we should not have any public hearings, why
15 don't you just do whatever the hell we want to do here.

16 You know, it's not fair. It's not fair,
17 because in every area that I know of, it is public
18 hearings. It's a very important item on anybody else's
19 agenda. And for your legal counsel to say that we have --

20 MR. C. WASHBURN: I'm sorry, sir. I'm going to
21 let him speak to it.

22 MR. SALINAS: -- for us to be compared to a
23 dumping area in Starr County, it's not fair. You know,
24 they made a decision. Do you know where Starr County is
25 at?

1 MR. C. WASHBURN: I do know where Starr County
2 is.

3 MR. SALINAS: Okay. I do know where Starr
4 County is. I went to school there. But I know they don't
5 have any zoning. You know, it's about the only county
6 probably inside Texas doesn't have any zoning. But
7 they're getting there. And their legal landfill in no way
8 can be compared to this item on our agenda today.

9 MR. DAWSON: I'm trying to understand your
10 concern. Is it --

11 MR. SALINAS: My concern is the public that is
12 not in agreement with you. The city councilman from
13 Houston is not in agreements with you. And I'm supposed
14 to say that's -- that doesn't count?

15 MR. DAWSON: So what you're saying is that we
16 have a representative -- a city councilperson, rather, a
17 public official who writes the letter. And then we've got
18 a couple here who are against the project, and you've got
19 to vote no?

20 MR. SALINAS: And we're supposed to say your
21 opinion is not going to be taken into consideration at
22 all, because according to what you said, Mrs. Carrington
23 and the appeal, saying you all should not listen to them.
24 You all should stick to the rules.

25 So if we're going to do that, I say to myself,

1 Why have public hearings and do this? Or have any kind of
2 people from Houston traveling all the way here today, and
3 to tell them -- and if that's the case, the board vote
4 here will tell them, No, you do not have any say-so on
5 what we're doing here today, because this is what you
6 asked us to do in your petition to ask for an appeals
7 process.

8 Now, I've been asked this morning to do -- to
9 be on that board by Mr. Jones, and I refused to be on the
10 executive session with our legal counsel. I think -- let
11 the marbles fall where they're supposed to fall, and let's
12 discuss it the way we did this morning. And you know it
13 was a two-way. And my concern is this, that Mr. Bogany,
14 who represents this area, is not here. And he was one of
15 your objective voters last time.

16 That's what I'm -- that is my big question. Do
17 we take public comments into consideration, or we just
18 ignore them? What is the answer?

19 MR. DAWSON: The answer is that you may
20 consider public comment. But when you consider that
21 public comment, you have to do so in the context of your
22 rules.

23 MR. SALINAS: Yes. My rules. Not the agency's
24 rules. My rules. Me having to go to bed tonight. I have
25 to go to sleep tonight. And if I do what anybody else is

1 telling me to do, I have to live with myself tonight and
2 tomorrow, and every other day. You know, and this is -- I
3 have -- the only thing I have to do is live with myself.
4 And the only thing I have to do in this world is die. But
5 I've got to live with myself another few years.

6 MR. DAWSON: I understand what you're saying,
7 sir.

8 MR. SALINAS: And I'm concerned about public
9 hearings here. And one of the things -- one of the
10 reasons that the agency was on a assessing commission to
11 less them, was because we do not have public involvement.
12 And you only -- this board has done a beautiful job in
13 the last 12 or 13 months.

14 So we were off the Sunset Commission. We were
15 given another 12 years. And one of those reasons was
16 because we had a lot of public involvement, and we had a
17 lot of public image. And Mr. Jones could find that very
18 well the last 12 months.

19 And if we stop doing that, and we just go ahead
20 and ignore public hearings and ignore public comments, and
21 ignore their objections, we can't have it all one way.

22 You know, you might get this thing done today.
23 But I -- everybody knows how they feel. I just wanted to
24 ask those questions because I was reading your appeals.
25 And my name is mentioned in almost every item with your

1 appeal.

2 MR. C. WASHBURN: It is.

3 MR. SALINAS: That's why I resay my things that
4 have to be on this record. That I still feel that public
5 hearing is the most important thing. And Katy, Texas --
6 we had another public hearing. For 1,600 people are
7 against it, and nobody was in favor.

8 And they expected us to vote in favor of it. I
9 voted against it. I felt that 1,600 people is a lot of
10 people. And nobody was in favor. So I just wanted to
11 reassure myself was that --

12 CHAIRMAN JONES: Mr. Dawson, I've got a couple
13 of questions.

14 MR. DAWSON: Certainly.

15 CHAIRMAN JONES: I think now is a good time,
16 please.

17 MR. DAWSON: Mr. Washburn is kind of turning
18 over the questions. Now, if I understand your appeal, the
19 first appellate point you make is that you don't
20 understand why we did what we did before. Right? And we
21 should have given -- under our rules, we should have given
22 notice of the grounds for our decision to deny it.

23 MR. DAWSON: Correct.

24 CHAIRMAN JONES: Okay. Now, if we were to
25 agree with you on that and grant the appeal on that issue,

1 and then go back and provide you with those grounds, where
2 are we?

3 MR. DAWSON: Well, you've got a transcript from
4 your other hearing, which from a practical standpoint
5 casts in stone the opinions upon which, and the analysis
6 upon which, this board made its decision, at least two of
7 you, these board members.

8 CHAIRMAN JONES: So in other words, you're
9 saying you don't know why I did what I did?

10 MR. DAWSON: You were silent, so I don't know
11 why you did what you did. But I do know why Mr. Bogany
12 and Mr. Salinas voted the way they did. And we have a
13 transcript identifying that.

14 CHAIRMAN JONES: So then you're saying that
15 that particular appellate point is really kind of moot,
16 because we don't need to go back and provide you with
17 that, because you've already got the transcript and you've
18 gotten what you need?

19 MR. DAWSON: We know why two of the board
20 members voted. We do not know why the entire -- what the
21 decision of the entire board was. So --

22 CHAIRMAN JONES: So then I go back to my
23 question. My question to you is simply this. If we do
24 grant your appeal on the first appellate point, I think it
25 was you're complaining to that, then where do we go from

1 there?

2 MR. DAWSON: Well --

3 CHAIRMAN JONES: List the procedure as you
4 think we'll follow at that point.

5 MR. DAWSON: Explain to me what you mean by
6 grant the appeal. Do you mean to approve the project, or
7 to --

8 CHAIRMAN JONES: No, just say, Yes, we need to
9 do that, and we do it.

10 MR. DAWSON: Well, I think it's too late for
11 that.

12 CHAIRMAN JONES: Okay. I just want to make
13 sure that was your position. Secondly, since it's too
14 late for that, let's discuss some of the rules that the
15 mayor -- I have great respect for him. He's a wonderful
16 board member. I don't know that any of us, though, always
17 agree on everything.

18 Now, when I look at the rules that we're
19 operating under is the 2003 QAP. Right? Is that what
20 we're talking about?

21 MR. DAWSON: Well, it's the 2003 QAP. It's the
22 Administrative Code, as well as the government codes. So
23 we have three sources of -- one source of statutory
24 authority and two sources of rule.

25 CHAIRMAN JONES: So when you say we have not

1 operated under our own rules, you're referring to the 2003
2 QAP. Right, sir?

3 MR. DAWSON: No, I'm not.

4 CHAIRMAN JONES: The 2002?

5 MR. DAWSON: Under the 2002 QAP.

6 CHAIRMAN JONES: Okay.

7 MR. DAWSON: What I am referring to would be
8 the Section 33.11(a) of the Texas Administrative Code.

9 CHAIRMAN JONES: What I'm trying to get at is
10 this. And it -- are you saying that the board is simply a
11 ministerial act?

12 MR. DAWSON: No, I'm not.

13 CHAIRMAN JONES: Okay. So the board did
14 have -- the board had to make a decision based on the
15 evidence it had before it. Correct?

16 MR. DAWSON: Based on the evidence before it,
17 and in the context of the stated criteria that you're
18 required to review that evidence.

19 CHAIRMAN JONES: Okay. And -- okay. So there
20 was a decision to be made. It's not a ministerial act.
21 And in your position --

22 MR. DAWSON: Correct. Absolutely.

23 CHAIRMAN JONES: You're not taking the position
24 that once staff makes a recommendation to us, then we
25 shall approve that recommendation as a ministerial act.

1 That's not the position that you're taking. Correct?

2 MR. DAWSON: No.

3 CHAIRMAN JONES: Okay.

4 MR. DAWSON: Can I address the board, since
5 we're talking about board approval?

6 CHAIRMAN JONES: Certainly.

7 MR. DAWSON: What your rules require is that if
8 you're going to overturn a staff recommendation, then you
9 must show good cause.

10 CHAIRMAN JONES: Uh-huh. Okay. Now, next,
11 would you agree with me that one of the factors that we
12 are supposed to use in evaluating these decisions is the
13 local needs, and the impact on a development such as this
14 as part of a revitalization or a preservation plans?

15 MR. DAWSON: Sure.

16 CHAIRMAN JONES: Okay. Would you not agree
17 with me that there was testimony all throughout that
18 record that dealt with that issue? I mean, I'll tell you
19 right now, with your brief -- you know, I have a problem
20 with it.

21 I think, number one, you take isolated
22 statements out of context from certain board members, and
23 decide that's why they voted. You know, you take a
24 statement in a vacuum. And you all are implying that that
25 was what was going on in your mind. I personally think

1 that's very dangerous.

2 Secondly, there is testimony in that transcript
3 where on those two issues I just suggested to you, and
4 couldn't those be used to testify whatever decisions are
5 made?

6 MR. DAWSON: There is a couple of issues with
7 that.

8 CHAIRMAN JONES: Certainly.

9 MR. DAWSON: One is, all we have to go on is
10 the transcript, because again, we were not afforded, under
11 due process, a written explanation of why the board did
12 and did not make its decisions. So for us to try to --

13 CHAIRMAN JONES: You've already just told us
14 now that you don't want us to fix that. And that's --

15 MR. DAWSON: No, I'm telling you it's too late
16 for you to fix that.

17 CHAIRMAN JONES: Okay. Okay. So you're saying
18 now it's a ministerial act. Is that what you're saying?
19 Where we had no discretion, since that error was made? In
20 your opinion that error was made. I'm not saying that it
21 was or it wasn't. But in your opinion it was made, so now
22 you're saying it was a ministerial act in your
23 administration?

24 MR. DAWSON: Well, at this hearing, a de novo
25 review of the evidence is permitted.

1 CHAIRMAN JONES: Okay. Thank you.

2 MR. DAWSON: I -- as you read your agency's
3 appeal rules, it does not require you to consider this de
4 novo on the record. Sort of silent with respect to that
5 regard. The problem with that is that you have put in
6 place a requirement that limits us to provide the unity
7 of, and it's for you to consider seven days before the
8 hearing. Yet you've permitted what is in effect the other
9 side to provide testimony up to right now, which makes it
10 very difficult to us to analyze that testimony.

11 And there's been various statistics given
12 regarding school populations, for example. It's here
13 right now. It's very difficult for us to, if that's the
14 basis, for example, you wanted to base your decision on,
15 to address that, to analyze it, or to provide you with any
16 information from our point of view with respect to that.
17 Yet, we are required to limit the information that we
18 provided to you as of March 6. That doesn't seem fair.
19 It's not fair.

20 CHAIRMAN JONES: Well -- yes, you want to talk
21 about fairness, the other side could tell us a lot of
22 things that this process is unfair to them, too.

23 MR. DAWSON: Sure.

24 CHAIRMAN JONES: Let me ask you this. Also,
25 under our rules, would you agree with me that the existing

1 supply of comparable properties is something this board is
2 supposed to look at?

3 MR. DAWSON: You are required to look at the --
4 whether the development -- whether there is a -- what the
5 comparative need for housing is. That's what you are --

6 CHAIRMAN JONES: Right.

7 MR. DAWSON: -- your statute says. Now,
8 whether -- and to the extent that there are these
9 developments in the area is relevant to that decision, I
10 don't know.

11 CHAIRMAN JONES: You don't know? I mean,
12 wouldn't you think it would be? I mean, be fair. I mean,
13 yes. I mean, Mr. Dawson, wouldn't it be -- wouldn't
14 comparable properties -- wouldn't it be relevant?

15 I mean, you all bring a lady here who just
16 testified about her -- certain guidelines she went by.
17 Isn't that just as relevant when they bring the opposite
18 evidence in?

19 MR. DAWSON: Well, I guess I'm making a more
20 technical point. But the point I'm making is if you -- if
21 there was one project that is next door to the other
22 project, is that dispositive evidence the public should or
23 should not be considered? In what manner do you consider
24 it? I think you -- certainly you considered it.

25 But what you've got to look at in terms of

1 comparative need is, well, what are the waiting lists on,
2 you know, on the other areas? How many other projects are
3 there? Are there other developments that are planned?

4 CHAIRMAN JONES: And are they full or not? Are
5 they -- do they have vacancies or not? Right?

6 MR. DAWSON: Certainly.

7 CHAIRMAN JONES: And the only way we can find
8 that out is where people come to these board meetings and
9 tell us.

10 MR. DAWSON: Certainly. But what I'm --

11 MS. CARRINGTON: Wait a minute.

12 MR. DAWSON: But what I'm saying is, as of the
13 meeting that we had, there was no evidence regarding that
14 on the record.

15 CHAIRMAN JONES: Well, and there is elements of
16 market studies. I mean, we had those, correct?

17 MR. DAWSON: Certainly.

18 CHAIRMAN JONES: And you all referred to an
19 independent market study.

20 MR. DAWSON: Uh-huh.

21 CHAIRMAN JONES: When you refer to it as
22 independent, what do you mean?

23 MR. DAWSON: Independent in that the person who
24 provided the market study is not -- he is -- it is an
25 independent firm, and it's not a firm that is associated

1 with or affiliated with Enclave.

2 CHAIRMAN JONES: And who paid for it?

3 MR. DAWSON: It's a company that provides
4 market study information as their business.

5 CHAIRMAN JONES: Who paid for it?

6 MR. DAWSON: We paid for it under -- because
7 we're required to under your rules to pay for it.

8 CHAIRMAN JONES: Okay. I understand. I'm
9 not -- I mean, I'm just questioning the term
10 "independence."

11 MR. DAWSON: Certainly.

12 CHAIRMAN JONES: In a court of law, it wouldn't
13 be referred to as independent, would it?

14 MR. DAWSON: Well, if you look at the standards
15 by which market -- under Texas Appraisal and other
16 governing bodies by which market study analysts are
17 required to follow, I think it probably would be viewed as
18 independent, even though we paid for it.

19 CHAIRMAN JONES: Even though it's paid for by
20 one side. Okay. Thank you, sir. Those are the questions
21 I had. Thank you, Mr. Dawson.

22 MR. DAWSON: Certainly. I don't see a need to
23 go back through my testimony again, unless Mr. Conine or
24 Mr. Jones, or the other board members would like me to.
25 Thank you.

1 CHAIRMAN JONES: Thank you. Is there anybody
2 else you'd like to speak? Mr. Dawson?

3 Sure. Thank you.

4 Mr. Washburn?

5 MR. J. WASHBURN: Can I just -- yes, My name is
6 Jim Washburn.

7 CHAIRMAN JONES: Yes, sir.

8 MR. J. WASHBURN: And I just want to make two
9 comments. And they're both addressed to some comments
10 that Mr. Salinas said.

11 I had presented the board back at the previous
12 board meeting an outline of the times and dates when I met
13 with members of the organizations, the civic clubs, Ms.
14 Ada Edwards's office. I first met with Ada Edwards on
15 December 18, not in any of those. She was against that
16 development. She could have written that letter on
17 December 18.

18 Well -- let me finish, please, if you may. And
19 then I'd also like to quantify what -- when we talked --
20 the neighborhood. We had 60 people at the TEFRA hearing
21 in opposition. And it's the same -- and I agree with your
22 comments, Chairman Jones, that we should listen to the
23 public.

24 I believe Ms. Walker and I have had some very
25 good conversations, and I believe that she would agree

1 that we have gotten along just fine. And we have talked.

2 And he had open lines of communication.

3 But what I'm saying is you've got a small group
4 of people, a small cross-section of 23,000 people that
5 have continued to show their opposition. They have that
6 right. Now, we agree with that. But I don't think that
7 they represent the entire 23 population -- 23,000 people
8 that called in our market study. That's all I have to
9 say.

10 MR. SALINAS: They have a chance to vote
11 against Ms. Ada Edwards, when she comes for reelection.

12 MR. J. WASHBURN: That is correct. And I met
13 with that --

14 MR. SALINAS: And then that's the beauty of the
15 whole thing, you know?

16 MR. J. WASHBURN: I'm not going to argue with
17 you.

18 MR. SALINAS: How do we get reappointed here?
19 I mean, we all would be -- if we all would run for office
20 here and run for these positions --

21 CHAIRMAN JONES: Who would ever want to be?
22 Can you explain that to me? If you could, I'd appreciate
23 it.

24 MR. J. WASHBURN: She was in a difficult
25 position, Mr. Mayor.

1 MR. SALINAS: Well --

2 MR. J. WASHBURN: She has supported it. Saw
3 the constituents were against it. Wrote you a letter
4 after the board's made a decision. That's the fact.
5 That's all there is. Thank you.

6 MR. SALINAS: Thank you.

7 MR. J. WASHBURN: I'd also like to show for the
8 record that we have people here in support of this
9 development, if they would stand today. Thank you.

10 CHAIRMAN JONES: Excuse me. If everybody would
11 come to order. And the next -- there is a Mr. James M.
12 Washburn.

13 MR. J. M. WASHBURN: I just have a couple of
14 comments. I wasn't really going to state, but thank you
15 for this opportunity. My name is James M. Washburn. I'm
16 also a principal of LCJ Management. I'm a principal of
17 Enclave at West Airport. And I would just like to -- I
18 understand where the people -- the opposition is coming
19 from.

20 But my problem with that, and we've tried to
21 address every one of their issues. We've addressed their
22 issue of traffic, we've -- flooding, zoning, whatever
23 their issues were, we tried to work with them.

24 Now, I think the problem comes in, and the real
25 problem is the way people look at affordable housing today

1 versus affordable housing 30 years ago, or 40 years ago,
2 or even 20 years ago.

3 I mean, you have a program in place here that
4 helps the people that need to be helped. And if this
5 group -- if you say to this group right here, this
6 opposition group, these -- this project will not be good
7 for you because you don't want it in this neighborhood,
8 for these reasons, which -- and they haven't backed up any
9 of their reasons or fact.

10 But if you do that, and you make that
11 statement, you might as well tell every developer and
12 every builder not to come here, because you're going to
13 hurt somebody, just like these people. That's all I have
14 to say.

15 CHAIRMAN JONES: Ms. Lisa Campbell.

16 MS. CAMPBELL: Good afternoon. You heard mine
17 earlier. My name is Lisa Campbell. And I am a resident
18 of Garden Gates Apartment in Katy for about 15 months.
19 I'm the single mother of two children, eleven and 15. And
20 I work at a propane company, downtown Houston, as an
21 account analyst.

22 I'm not here to defend the builders or the
23 contractors. I'm just let you to know how low income
24 housing has affected me. I understand the residents'
25 concerns and their opposition, what they're saying.

1 You know -- it's -- you know, it's
2 understandable. But all I'm saying is, Yes, they're
3 building single-family housing. Well, still, some people
4 might not -- can't afford single-family housing, or the
5 upkeep on a house.

6 These apartments give the people opportunity,
7 like if something breaks down, you do have someone to come
8 and fix it. And as far as like, public assistance, I paid
9 \$700 a month. So does most of -- many of the people in my
10 apartment complex.

11 That's not small change. Nor does that
12 consider us on public assistance. And like I said, the
13 residents in the communities are young couples, single
14 parents, one-income parent families, elderly people on
15 fixed income. They're nurses, firemen or business people.

16 We're not trying to lower the community or
17 their subdivision. We're just trying to -- let's just
18 have something we can call our own, have something that we
19 can accomplish and achieve.

20 I just think it's sad for someone like me not
21 to be able to have that opportunity to live in a complex
22 like this, like Garden Gate, or the one that they're
23 trying to build, because it's a wonderful environment, a
24 wonderful place, and wonderful opportunity.

25 And I just want to give you -- I want to say

1 thank you for the opportunity to speak today, and
2 providing housing people can afford, for me and my
3 children.

4 MR. SALINAS: Let me ask you a question. Do
5 you rent, or do you --

6 MS. CAMPBELL: I rent.

7 MR. SALINAS: You rent? Do you know that we
8 have a HOME Program, that you can buy your home and get
9 some assistance for the down payment and closings, where
10 you can buy your own home and be a --

11 MS. CAMPBELL: And I've heard of that. And
12 that's fine for some people. I choose not to go that
13 route. I mean --

14 MR. SALINAS: But this state and this agency
15 that does so much for housing, and so much for everybody
16 else in the State of Texas. For us to be pointed out in
17 Houston -- you know, we would love to have this project in
18 South Texas.

19 MS. CAMPBELL: Okay. We'll let's get it in
20 South Texas.

21 MR. SALINAS: But the thing is that we all are
22 getting away from what we are really all about. We're
23 about taking care and respecting everybody else's right.
24 And if you want to be there, that's fine. But you're
25 not -- you're paying rent. And this is fine.

1 You know, I probably would go ahead and rent
2 one of these days because I don't want to pay any more
3 taxes.

4 But the thing is, we are doing everything we
5 can for the state. And we've done so much in the last 13,
6 14 months that I've been here. And we're doing it every
7 day through the HOME Program. It's through this program
8 itself. We have not stopped spending and doing for
9 everybody in Texas. Not one time.

10 MS. CAMPBELL: And I commend you.

11 MR. SALINAS: And then Houston, we have the
12 most. Senator Lindsay was complaining that he has so many
13 of them -- too many CHDOs, too many nonprofits. But we
14 have the senatorial hearing on our confirmation, that he
15 wanted to stop -- as a matter of fact, they want to do
16 away with CHDOs, the nonprofits, because they don't want
17 them in Houston. They want people that are going to be
18 paying taxes. And maybe this is one of the projects.

19 MR. C. WASHBURN: We are a for-profit, Mayor
20 Salinas. And --

21 MR. SALINAS: Yes. I understand that. I'm
22 telling you what the concentration is. Bogany, who is
23 from Houston, was -- this is what his biggest concern is.
24 And it's sad to see that we don't have him on the agenda
25 today. But he was one of the oppositions to this project.

1 And I respect him for it. And I just don't think, you
2 know, we should have taken this item today without him.
3 But we're going to do it today.

4 MS. CAMPBELL: Well, if it was that big of a
5 desire for him, I think he should have took that that time
6 to be here.

7 MR. SALINAS: I agree with you. I agree with
8 you.

9 MS. CAMPBELL: Thank you.

10 CHAIRMAN JONES: Ma'am, can I ask you one
11 question?

12 MS. CAMPBELL: I'm sorry.

13 CHAIRMAN JONES: Did I hear right? You're
14 paying \$700 per month in rent?

15 MS. CAMPBELL: Yes, sir.

16 CHAIRMAN JONES: Thank you. I just wanted to
17 make sure the record reflected that.

18 Mr. Paul Seals?

19 MR. SEALS: I pass.

20 CHAIRMAN JONES: We will now move to other
21 public comment. I think that's all the public comment we
22 have on the Enclave matter. Is that correct? It is. Mr.
23 John Henneberger.

24 MR. HENNEBERGER: Mr. Chairman, board members,
25 my name is John Henneberger. I'm co-director of the

1 nonprofit Low Income Housing Information Service. I'm
2 here today to speak on Item 5(b) on your agenda, which
3 is -- relates to your Public Housing Plan.

4 I -- this is sort of my annual appearance here
5 on this issue, to raise again the issue which I raise
6 every time, which is the board is -- as it currently sets,
7 lacks a representative of the poor, or a consumer voice
8 among the -- among your members.

9 Federal law requires clearly that this board
10 have a representative of your public housing clientele
11 sitting on the board making decisions on all of the issues
12 that come before the board.

13 You know -- I have no problems with the plan,
14 per se, except I do want to go on the record again, and
15 urge that the staff convey my comments as part of the
16 public record on this hearing to HUD, that the board is
17 still improperly constituted, and as noted in your Public
18 Housing Plan, the Governor is still studying the idea of
19 including a public housing resident on the board.

20 And I think four years is long enough to study
21 the thing. And the board would be well-served, the people
22 of Texas would be well-served, and your public housing
23 constituency, the thousands of families who you represent,
24 would be better served if there was a person who -- with
25 that representation here at the board.

1 So again, this is not your fault. I'm not here
2 to complain about you all. You're doing a great job.
3 You've got a good plan. Everything is going fine. I just
4 want to try to get some attention to this issue. Thank
5 you very much.

6 CHAIRMAN JONES: Thank you. I appreciate all
7 your help.

8 Mr. Ron Anderson.

9 MR. ANDERSON: I was actually going to speak,
10 but this came up on the agenda. My name is Ron
11 Anderson --

12 CHAIRMAN JONES: You have that option, sir.

13 MR. ANDERSON: Okay. Thank you.

14 MR. CONINE: Which agenda is it?

15 CHAIRMAN JONES: It's 3(a). And the next
16 individuals would like to speak on Item 4 of the agenda.
17 And Mr. Carl Conley. Okay.

18 MS. CONLEY: I'll speak at the time of the
19 agenda item, please.

20 CHAIRMAN JONES: Okay. Mr. Tom McMullen.

21 MR. McMULLEN: We're going to speak at the time
22 of the agenda item.

23 CHAIRMAN JONES: Mr. Ryan Luxon.

24 MR. LUXON: It's Luxon. Yes.

25 CHAIRMAN JONES: Oh, excuse me. Ms. Cynthia

1 Bast.

2 MS. BAST: Agenda item here.

3 CHAIRMAN JONES: And Mr. McLean -- William
4 McLean.

5 MR. McLEAN: Agenda item.

6 CHAIRMAN JONES: Agenda item. Thank you. I
7 will then move to individuals who want to speak concerning
8 items on the executive session.

9 Julie Lane? That will be fine. You just tell
10 me where you want to be. And I think there are three of
11 you. Is that correct? Thank you.

12 MS. LANE: Thank you, Mr. Chair.

13 (Pause.)

14 CHAIRMAN JONES: Well, you're sure? You're
15 sure now you'd like to --

16 MS. LANE: Testify. Thank you.

17 CHAIRMAN JONES: Okay. Thank you, ma'am. That
18 then will close the time for public comment. Have I
19 missed anybody? We will then close public comment.

20 MR. CONINE: Move for a five-minute break, Mr.
21 Chairman.

22 CHAIRMAN JONES: We have a motion for a five-
23 minute break. Without objection, then, we'll take a five-
24 minute break.

25 (Whereupon, a short recess was taken.)

1 CHAIRMAN JONES: We will now turn our
2 attention, since public comment has now been closed -- oh,
3 excuse me. We will now turn our attention, since public
4 comment has been closed, and the first executive session
5 we will not have, to the Open Session Item Number 1, is
6 Presentation, Discussion and Possible Approval of Minutes
7 of the Board Meeting of February 13, 2003.

8 MR. CONINE: Move for approval.

9 MS. ANDERSON: Second.

10 CHAIRMAN JONES: Motion's been made and
11 seconded. Further questions, comments, discussions,
12 amendments?

13 (No response.)

14 CHAIRMAN JONES: Hearing none, I assume we're
15 ready to vote. All in favor of the motion, say aye.

16 (A chorus of ayes.)

17 CHAIRMAN JONES: All opposed, nay? Motion
18 carries. We will then turn to Item Number 2 of the
19 agenda, which is Action on Appeal by The Enclave at
20 West Airport, Houston, Multifamily Mortgage Revenue Bonds
21 and Low Income Housing Tax Credits, 02-464.

22 And I -- we did have a committee meeting. The
23 chairman of the Appeals Committee was Beth.

24 MS. ANDERSON: Yes. Thank you.

25 CHAIRMAN JONES: You have a report to make?

1 MS. ANDERSON: Yes, I do. Thank you, Mr.
2 Chairman. We did meet, as you know, this morning, and
3 heard testimony on this item. And the committee voted in
4 a two-to-one vote to report this to the full board with a
5 recommendation to change the previous decision and approve
6 this project for tax credits and bonds.

7 CHAIRMAN JONES: Is that the form of a motion?

8 MS. ANDERSON: Oh. Yes.

9 CHAIRMAN JONES: It didn't have to be. It
10 didn't have to be, Ms. Anderson. If you don't care to
11 make a motion, I understand.

12 MS. ANDERSON: Right. It -- I prefer to just
13 to leave our -- it as a report at this point.

14 CHAIRMAN JONES: Thank you. I didn't mean to
15 put words in anybody's mouth.

16 MR. CONINE: I'll make a motion. I move we
17 accept the committee's report in the form of a motion.

18 MR. GONZALEZ: Second.

19 CHAIRMAN JONES: Okay. The motion's been made
20 and seconded. Discussion of the motion?

21 MR. CONINE: Could I ask to speak to Tom
22 Gouris, if I might?

23 CHAIRMAN JONES: You certainly may.

24 MR. CONINE: Tom, thanks for coming up. Have
25 any of the issues you've heard here today change or affect

1 the staff recommendation on this project, I mean, and
2 underwriting, if you will, on this project?

3 MR. GOURIS: I don't believe so. I'm Tom
4 Gouris, by the way, Director of Real Estate Analysis. I
5 don't believe so. I've been trying to track the comments
6 that were made to identify, you know, if we found any of
7 those issues to be relevant, or if we find this
8 consistency with those issues. And without having them to
9 really review to ensure that, it's hard to do.

10 But with regard to the other comparables that
11 they claimed and the other flooding issues -- I don't
12 think those -- I think we addressed those issues in the
13 report, and I don't think those issues -- would change our
14 positions right now.

15 MR. CONINE: Have you had a chance to go back
16 and re-review since our last board meeting, the decision
17 on this project, the market study, and kind of comb
18 through it one more time?

19 MR. GOURIS: Yes.

20 MR. CONINE: And again, your opinion is that
21 the market study was well done, and served us well in the
22 analysis?

23 MR. GOURIS: It served us to make affirmative
24 recommendation. Yes.

25 MR. CONINE: Thank you.

1 MR. SALINAS: Okay. Can you give us what the
2 City of Houston gave you on the flood zone? Can they
3 guarantee that this is not a flood zone?

4 MR. GOURIS: The documentation that we're
5 provided clearly reflects that it's not in a flood zone.

6 MS. ANDERSON: Are you finished?

7 MR. CONINE: I'm finished.

8 MS. ANDERSON: Okay. Before he sits down, may
9 I have a turn? We heard in testimony from Ms. Walker this
10 morning, and I have a copy of it if you didn't get a copy,
11 where she refers to several area, you know, apartment
12 complexes, you know. Says that they're tax credit, you
13 know, affordable low income-type housing developments.

14 The ones that she referred to in her
15 testimony -- are they reflected in the market study that
16 you previously reviewed last month, and have reviewed
17 since that time?

18 MR. GOURIS: The ones that she mentioned as
19 being tax credit transactions, I don't believe, other than
20 Palomino -- there is another transaction she didn't -- or
21 another development that she didn't mention that is in the
22 area that is a tax credit. She didn't mention that.

23 But the other ones she mentioned as tax credit
24 developments, I don't believe -- we don't show them in our
25 records as being tax credit developments. I didn't get a

1 copy of that. She didn't confirm addresses or anything,
2 but I don't believe that those were actually tax credit
3 ones.

4 They may, in fact, be affordable developments.
5 They may have had some other source of affordable
6 financing on them. But I don't believe they're tax credit
7 developments.

8 To the extent they were considered in the
9 market study, I believe they were because the market
10 analysts would have taken into consideration anything --
11 should have taken into consideration anything that would
12 have provided a comparable unit.

13 The issue with Palomino, and I think with some
14 of these other that may be affordable -- have some other
15 form of affordable financing on them, is that they really
16 target a lower income strata than the transaction that is
17 currently being proposed, because they have some --
18 Palomino has, for example -- or had, and should continue
19 to have some form of public assistance that's project
20 based, and that's going to target a lower income strata.

21 MS. ANDERSON: Okay. So be sure that I
22 understand, then. From you all -- from your department's
23 review of the market study that was set, you know, with
24 our -- last month, and again, since then, it's your
25 judgment that all of the appropriate properties that

1 needed to be included, you know, per our concentration and
2 those kind of things, and all the things that -- all the
3 developments that impinge on our concentration and
4 calculations and so forth, in fact, that they were
5 included. The market analysts didn't miss one, or --

6 MR. GOURIS: That is correct.

7 MS. ANDERSON: Okay. I have one other
8 question. In the underwriting report, the definition of
9 submarket that's provided by the market analyst -- this is
10 unusual, and I frankly did not see this last month.

11 Instead of most of the market studies we see
12 have some sort of mile radius, oftentimes it's the three
13 to five miles, this one defines the market area as a
14 three-zip-code area. Can you give me some approximation
15 of three zip codes -- particularly these three zip
16 codes -- what does that equate to in terms of a mile
17 radius, which is sort of the way I'm used to thinking
18 about these?

19 MR. GOURIS: Let me first respond by saying
20 that the zip code designation is not uncommon for market
21 studies, and it's used oftentimes because better
22 information with regard to population census information
23 is often available through a zip code method than through
24 a radius method, because a radius method, you're actually
25 cutting up census tracts or zip code tracts, or whatever

1 you're base information is based on.

2 I don't know exactly what the equivalent radius
3 is -- would be. I could find that out for you. My guess,
4 based on how big zip codes are would be the equivalent to,
5 you know, something like a two-mile -- two to three-mile
6 radius. But part of my -- each zip code of these three
7 zip codes --

8 MR. SALINAS: Well, we have about a mile.

9 MR. GOURIS: So I guess it would be comparable
10 to --

11 MS. CARRINGTON: May I ask Robert Onion to come
12 up, because Robert also, after the last board meeting,
13 both Robert and Tom worked through these questions and
14 issues, and Robert, will you --

15 MR. ONION: Within your package, here is the
16 delineated market area that the market analyst used. The
17 following map behind shows a three-mile radius. And I
18 think the three-mile radius is slightly larger than the
19 delineated market area.

20 MS. CARRINGTON: Thank you.

21 CHAIRMAN JONES: Further questions? We --
22 excuse me. Public comment time is closed. I'm sorry,
23 we've engaged in debate. By our own rules, we cannot take
24 any more public comment.

25 Further questions, comments, discussion,

1 arguments? Are we ready to vote? We have a motion on the
2 floor that's been made and seconded. I assume we're ready
3 to vote. All in favor of the motion, please say aye.

4 (A chorus of ayes.)

5 CHAIRMAN JONES: All opposed, nay?

6 MR. SALINAS: Aye -- nay.

7 CHAIRMAN JONES: The motion carries. Before we
8 leave this particular item, though, I would like to just,
9 in accordance with the fact that we had a vigorous
10 opportunity to enjoy public comment on this matter, and I
11 know we're looking at policies with regard to this, I
12 would just like to give the staff some input from myself
13 with regard to some of the policies they've been talking
14 about here today.

15 One of the things that I really want to say --
16 you know, I respect the board members that voted for it.
17 I have great respect for the board members that have voted
18 against it. I understand what a difficult situation this
19 is. I disagree with a couple of points with regard to
20 public testimony.

21 I disagree, number one, that every time we turn
22 down something based upon receiving input from the public
23 we're telling developers they can never do anything.

24 The second thing I really disagree with is that
25 our developments work best when it's a joint endeavor.

1 Where the community, the developer, the department can all
2 work together on the same page. And when you know your
3 community is vastly opposed to it, I do think you proceed
4 at some risk.

5 And secondly, I think this board, if we say
6 anything, we've said this. That -- I've had developers
7 tell me before, that a lot of times they try it, you know,
8 went low on the radar screens scope with development. We
9 want to work with communities. And that's where we're
10 going to do the most good. And when we work opposite to
11 the community, that's when we're all going to have
12 problems. And this decision's been made.

13 Please do not take these comments in any way,
14 shape, form or fashion as being negative toward the
15 decision. I'm not. But please take them as these are
16 policy issues I hope we consider as we look at these
17 rules. So that's the only thing I had to say. Anybody
18 else got anything they want to say?

19 MR. SALINAS: I just feel bad for Bogany, where
20 he's not here to attach his vote. I think that this
21 should have been a decision of the full board. We don't
22 have a full board. I still say that he would have had a
23 lot of input in this decision, the way he did the last
24 time. So I just feel sorry for the people of Houston.

25 CHAIRMAN JONES: Thank you, Mayor. With that,

1 if we could, let's take a short break for lunch. And then
2 we'll turn to Item 3 on the agenda. We have the food, I
3 think, already brought in. And it's back there.

4 So you can get your sandwiches. And in about
5 ten minutes, I'll reconvene this, if that's all right with
6 everybody. Thank you.

7 (Whereupon, at 12:45 p.m., the hearing was
8 adjourned, to reconvene this same day, Thursday, March 13,
9 2003 at 1:05 p.m.)

A F T E R N O O N S E S S I O N

1:05 p.m.

1
2
3 CHAIRMAN JONES: We will move forward. We're
4 at Item 3 of the agenda. I have several people that would
5 like -- or one person who would like to speak on Item 3,
6 Mr. Ron Anderson. Mr. Anderson.

7 MR. ANDERSON: Hi. My name is Ron Anderson.
8 I'm the executive director for a affordable housing
9 sponsor called Housing and Community Services, based out
10 of San Antonio. Our job, or our mission is the
11 acquisition and rehab of existing affordable housing that
12 has normally some Section 8 kind of on it.

13 The proposal that is before you today is -- I'd
14 like to say it's like a poster child for housing
15 preservation. This is an 82-unit complex in San Antonio
16 built under HUD's 231 Program. It's restricted to elderly
17 and handicapped.

18 The owner -- the for-profit owner is bailing
19 because as the HUD rules become more and more complicated,
20 they are more and more onerous for these individual owners
21 to follow. He wants to put it on the market, but is
22 giving us, the nonprofit, the chance to purchase it. And
23 the loan that you're considering which is before you, the
24 low interest loan, will help us -- will help make that
25 happen.

1 What it's going to do is preserve 82 units of
2 Section 8 housing for Texas, not only for the 82 folks
3 that are living there now, but for the next 82 households,
4 and the next 82 households, and the next one. So I thank
5 you for your consideration of this proposal.

6 I also want to take an opportunity to thank the
7 staff of your -- at the agency for their work. We've
8 worked with them, oh, for a number of years, and have
9 always found them to be responsive and helpful, in
10 particular this -- they encouraged us to look at the
11 preservation fund and see if we could make it work for our
12 project.

13 They helped us get through it, and brought it
14 to you. So I really want to acknowledge them for their
15 hard work and their consistency. So thank you.

16 CHAIRMAN JONES: Thank you, sir. Any
17 questions? All right. That will end, then, the public
18 comment for Item 3. I don't have anybody else that signed
19 up for Item 3. Mr. Conine, we'll take up these items.

20 MR. CONINE: Thank you. The first item is the
21 Loan in the Amount of \$909,657 to be Made Under the
22 MultiFamily Housing Preservation Incentives Program. And
23 Ms. Carrington, are you going to handle this one?

24 MS. CARRINGTON: Yes, sir. I am. Thank you.
25 Staff is recommending the approval of this loan in

1 \$909,657. It is under our Preservation Incentive Program.

2 You'll see on your summary sheet that if the
3 board approves this loan this afternoon, that what we'll
4 have left in this program is about \$322,670. As Mr.
5 Anderson said, it is 82 units.

6 It's currently Section 8 assisted. It is
7 elderly. It has occupancy over 90 percent. And the
8 department is providing favorable loan terms for a 15-year
9 period, and staff is recommending this transaction.

10 MR. CONINE: Move for approval, Mr. Chairman.

11 MR. GONZALEZ: Second.

12 CHAIRMAN JONES: Motion's been made and
13 seconded. Questions, comments, discussion, arguments?

14 MS. ANDERSON: I have some.

15 CHAIRMAN JONES: Thank you.

16 MS. ANDERSON: Not the last, but I do have some
17 of the first. And I think maybe I need Mr. Gouris's help.

18 I'm understanding that the purchase price on this thing
19 is -- the acquisition cost to buy the property from the
20 for-profit that owns it now is 1,850,000.

21 And we're going to give him \$909,000 in this
22 loan. And 725 of that is cash to the seller. And so then
23 that leaves 175,000 for the new owner to do something
24 with. Do I have that about right?

25 MR. GOURIS: That's about right.

1 MS. ANDERSON: I know I must be confused about
2 something, because this doesn't look like a preservation
3 deal to me. You know, in our QAP rules, we indicate
4 that -- now, I know this is for -- those are for tax
5 exempt developments, and this is -- these are taxable
6 bonds in the junior lien program. But in our QAP, we talk
7 about needing \$6,000 per unit in rehab costs as a
8 criteria. And \$6,000 a unit times 82 units is 492,000,
9 not 175. Tell me what I'm missing.

10 MR. GOURIS: There is not a limit for a minimal
11 amount of rehab.

12 MS. ANDERSON: I mean, I really think -- you
13 know, I really think preservation is terribly important.
14 I thought that the junior lien is a very creative thing
15 that the agency staff came up with.

16 You know, I totally support the junior lien
17 bond program, but I -- for this reason that I -- there is
18 not that much, you know, going into rehab, and I have
19 other concerns about, you know, the CHDO and whether a
20 pilot's in place, and all those kinds of things that
21 aren't addressed in this application, I'm going to oppose
22 approval of this.

23 MR. GOURIS: But might I comment on the
24 preservation issue?

25 MS. ANDERSON: You bet.

1 MR. GOURIS: I mean, this is something that
2 staff has struggled with as well. But there is some
3 preservation that's occurring here, and that's the
4 preservation of the affordability of these units, and the
5 HAP contract that's -- that affects them.

6 If this property is sold to market, that HAP
7 contract could go away, that the affordability could go
8 away, and because this property is in reasonably --
9 actually very good shape, there is a very good likelihood
10 that that could happen. So what we're preserving is the
11 affordability and the federal assistance that's already on
12 the property.

13 MS. ANDERSON: Okay. May I ask you another
14 question?

15 MR. GOURIS: Yes, ma'am.

16 MS. ANDERSON: The HAP contract -- those are
17 annually renewable contracts, or are they multi-year
18 contracts?

19 MR. GOURIS: In this case, I believe it's an
20 annual renewal. But in -- it can be a variety of renewal
21 time periods.

22 CHAIRMAN JONES: Further questions, comments?

23 (No response.)

24 CHAIRMAN JONES: Hearing none, I assume we're
25 ready to vote. All in favor of the motion, please say

1 aye.

2 (A chorus of ayes.)

3 CHAIRMAN JONES: All opposed, nay?

4 MS. ANDERSON: Nay.

5 MR. SALINAS: Nay.

6 CHAIRMAN JONES: The chair joins the nay. The
7 motion is defeated. Item 3(b).

8 MR. CONINE: Okay. Resolution Authorizing the
9 Extension of the Certificate Purchase Period for
10 Residential Mortgage Revenue Bonds. Ms. Carrington?

11 MS. CARRINGTON: Thank you, Mr. Chair. The
12 department issued bonds, 2001 Series A,B,C,D, which is
13 Program 57. But staff is recommending the current
14 deadline for the purchase of the certificates, for the
15 delivery of certificates is May 2003, which is this May.

16 What staff is recommending is to extend the
17 certificate purchase date for this program to May 2004.
18 You will see that we had total lendable proceeds in this
19 program of \$60,844,000. We only have \$1,818,000 that is
20 still available in this program. But we do need this
21 additional time to make sure that loans are originated,
22 loans are packaged, and the certificate purchase period
23 has expired.

24 MR. CONINE: Mr. Chair, I want to move that we
25 move for approval. And this is Resolution 03-12.

1 MS. ANDERSON: Second.

2 CHAIRMAN JONES: Motion's been made and
3 seconded. Further questions, comments?

4 (No response.)

5 CHAIRMAN JONES: Hearing none, I assume we're
6 ready to vote. All in favor of the motion, say aye.

7 (A chorus of ayes.)

8 CHAIRMAN JONES: All opposed, nay? Motion
9 carries.

10 MR. CONINE: Item 3(c) is Resolution
11 Authorizing an Interest Rate Reduction for Certain Fannie
12 Mae-Expanded Approval Loans Made Available Through a
13 series of Mortgage Revenue Bonds.

14 Ms. Carrington?

15 MS. CARRINGTON: Thank you. This was series
16 2002A, B, C, and D, with this Program 57(a) for us. These
17 proceeds were made available last summer. This program
18 included -- we were the first state housing finance agency
19 in the country to include what's called the expanded
20 approval EA 1 and 2, which is a Fannie Mae program to
21 assist borrowers who might have some minor credit
22 problems. You can see that the rates when we issued the
23 bonds in '02, it's the old TDHCA EA rate of 7.2 percent
24 and 7.45 percent. What we have done is restructure a
25 portion of this, and we now have new interest rates of

1 6.20 and 6.50 that would be applicable for the expanded
2 approval program. And staff is recommending the approval
3 of the board to restructure for these loans.

4 MR. CONINE: Mr. Chairman, I move for approval
5 of staff recommendation. Again, this will be Resolution
6 Number 03-14.

7 MR. GONZALEZ: Second.

8 CHAIRMAN JONES: Motion's been made and
9 seconded. Questions, comments?

10 MR. SALINAS: Is that only for the newcomers,
11 or people that are in existing loans right now?

12 MS. CARRINGTON: No, sir. That would be for
13 new mortgage loans, for new borrowers, new loans.

14 CHAIRMAN JONES: Further questions, comments?
15 All in favor of the motion, please say aye.

16 (A chorus of ayes.)

17 CHAIRMAN JONES: All opposed, nay? Motion
18 carries.

19 MR. CONINE: That concludes my report.

20 CHAIRMAN JONES: Item 4 is the Presentation
21 and, Discussion and Possible Approval of Low Income
22 Housing Tax Credit Items. Ms. Carrington?

23 MS. CARRINGTON: Thank you, Mr. Chair. This is
24 Item 4(a), and what we are asking the board to do this
25 afternoon is to consider a policy that will enable

1 developments that have funding from USDA -- U.S.
2 Department of Agriculture Rural Housing Services that are
3 experiencing foreclosure at loan acceleration to be
4 submitted to the board for recommendation from a forward
5 commitment of Low Income Housing Tax Credits for the '04
6 ceiling, from the 2004 '04 ceiling.

7 Last year, as you all were debating the QAP,
8 one of the things that we did talk about in our work
9 session was how the department -- what kind of mechanism
10 the department could create that would accommodate the
11 transactions -- the old Farmer's Home Transactions is
12 basically what we're talking about, that were going
13 through either a foreclosure, or for loan acceleration,
14 because in many instances, when that was happening, it did
15 not necessarily concur with when the department had an
16 open cycle.

17 This is a set-aside. It's the at-risk. It's
18 the preservation set-aside. It has typically been
19 undersubscribed with the department. And what we would be
20 requesting the board to do today would be basically create
21 the ability for these transactions, if they are funded
22 through the rural housing services, and that they can
23 provide evidence to us that they are either in
24 foreclosure, or that their loan is being accelerated, that
25 they would be able to apply to the department, and would

1 be eligible for an allocation of '04 credits through a
2 forward commitment. And let me ask with that, if Brooke
3 Boston would like to add anything to my presentation.

4 MR. CONINE: I hope she does.

5 MS. BOSTON: Hello. I'm Brooke Boston. The
6 only thing I would add is just to note that we have
7 proposed the policy in a way that those developments are
8 not scored. And that's kind of unique for that, for the
9 credit ceiling.

10 We anticipate that there will probably be very
11 few of them. I would suggest maybe a handful at the most,
12 and we're talking about pretty low credit amounts on those
13 deals.

14 MR. CONINE: Okay. Well, don't leave. I have a
15 question or two. There will be a way staff could -- when
16 those come back before you, staff could run through our
17 scoring criteria, not for -- in this particular example,
18 not for the '04, because we haven't determined the '04.

19 But under the '03 QAP scoring system? And I
20 guess it would be staff's intent to then bring those back
21 to the board for ultimate approval? Or is this an
22 automatic deal without board action?

23 MS. BOSTON: The policy is drafted so that we
24 would bring it back to the board -- development -- by
25 development, as they promised.

1 MR. CONINE: Okay.

2 MS. BOSTON: We don't anticipate that they'll
3 come in at one time. It may be -- we might have one in
4 April, and another one in August.

5 MR. CONINE: And so -- and again, the
6 information that we get in our packets, for you to be able
7 to score them, is that a difficult chore? Or something
8 that would be busy work? Or -- is there a value in that?

9 MS. BOSTON: It's probably more problematic for
10 the applicant to need to put together a whole Volume 4 if
11 they're not competing against anyone. I mean, we can
12 definitely require them to do so.

13 But you're asking them to, you know, do much
14 more front-end paperwork. And generally, people do that
15 because they're competing and they want to beat out the
16 other applicants. But in this case --

17 MS. ANDERSON: It seems to me that the granting
18 the special situation where they don't have to compete,
19 which is, you know, in their favor, that that might be
20 reasonable to expect them to make some effort in return
21 for that so that we have some sense of whatever it is
22 we're approving.

23 MR. CONINE: Especially if they're about to be
24 foreclosed on.

25 MS. BOSTON: I mean, I guess my question would

1 be if they go for absolutely no points and get a zero and
2 still meet threshold, are you going to --

3 MR. CONINE: Well, they're going to get some
4 points. I mean, they're going to score 40, 50, 100 --
5 whatever they score, aren't they?

6 MS. BOSTON: Well, what's in it? If you
7 indicate that there's an incentive for them to, yes. But
8 if it looks like they would be approved when they came to
9 you based on --

10 MR. CONINE: Well, no, no. I think -- I would
11 think the board would still have the ability to turn down.
12 This isn't an automatic situation.

13 MS. BOSTON: Okay.

14 MR. CONINE: I hope that's not what you're
15 suggesting.

16 MS. BOSTON: It was just that based on the
17 merit of them meeting all of the threshold requirements,
18 and then being evaluated for their financial feasibility,
19 material noncompliance issues -- if they met all those
20 standards, then we would bring them for approval.

21 You are -- I mean, we can redraft the policy if
22 you'd like to see a minimum number of points that they
23 would have to satisfy.

24 MR. CONINE: No. I don't know that that -- the
25 rule is necessary, because each of the rural situations is

1 so different, you know. I have a feeling for that, but
2 I -- you know, if there is -- could be a negotiation, if
3 you want to call it that, where maybe some more social
4 services would be provided at the complex that haven't
5 been in the past in exchange for the acceleration of tax
6 credits coming in and bailing them out of a particular
7 situation, that's some leverage that I would think would
8 be beneficial not only for the department to have, but
9 also ultimately the residents that live in that property.

10 MS. BOSTON: Okay. We can definitely have them
11 submit a Volume 4, and when we present their report to the
12 board, it will include what their score was, and what
13 items they got points for.

14 MR. CONINE: Now, under the proposed policy, if
15 we were to do two or three of these things, and we have a
16 set-aside for at-risk anyway, what would happen, let's
17 just say we get a flood of them for some strange reason,
18 and at-risk set-aside then becomes oversubscribed or
19 overspent?

20 Well, do they bleed over, then, into the rural
21 set-aside at that point?

22 MS. BOSTON: Actually, to clarify, it's out of
23 the rural set-aside. It's not the at-risk set-aside.

24 MR. CONINE: Okay.

25 MS. BOSTON: It's that subset-aside -- the 25

1 percent -- of the rural deals that are also USDA, so it
2 comes out of that subset-aside within the rural set-aside.

3 So it would continue to come out of the rural
4 set-aside. So it would count towards the 15 percent. It
5 would also be backed out of the regional allocation. So
6 for instance, if a region had \$2 million, and we allocated
7 200,000 of it throughout the year, then for '04, they'd
8 have 1.8.

9 And it doesn't have to be that way. We can
10 back it out off the top. But the way we proposed the
11 policy was that it would be backed up regionally, and by
12 the appropriate set-aside.

13 MR. CONINE: You know, we can never create a
14 perfect world here, but you know, I would hate to think
15 that the rural -- these folks with these type of projects
16 would cause their projects to be in a -- headed toward a
17 foreclosure procedure just to skate the competition.

18 And I'm -- I say that up front just in case it
19 ever comes back up. At least it will be on the record.
20 But I would hope that staff could -- and underwriting
21 could kind of see through some of that if it starts to
22 happen.

23 MS. BOSTON: Okay.

24 CHAIRMAN JONES: That's all the questions I
25 have.

1 MS. ANDERSON: Do we have a motion on the
2 floor, Mr. Chairman?

3 CHAIRMAN JONES: I don't think we do.

4 MR. CONINE: I don't think -- I didn't put one
5 on there.

6 CHAIRMAN JONES: We -- Delores remembers.

7 MS. ANDERSON: I mean, I think the discussion
8 between Ms. Boston and Mr. Conine was very good, and you
9 know, it gets to some of the issues that I have, and so
10 what my -- I guess my question is, is it -- does it make
11 more sense to, you know, try to write a motion on the
12 policy with all of the changes you all just talked about?

13 Or does it make more sense to have you all bring it back?

14 I mean, I don't know if staff has a -- bring it
15 back next month? I don't know if staff has a preference
16 on it.

17 MS. CARRINGTON: We certainly can bring it back
18 next month, that incorporates this discussion.

19 MR. CONINE: Move to table till next month.

20 MS. ANDERSON: Second.

21 CHAIRMAN JONES: The motion's been made and
22 seconded. All in -- any discussion of the motion?

23 (No response.)

24 CHAIRMAN JONES: Hearing none, I assume we're
25 ready to vote. All in favor of the motion, say aye.

1 (A chorus of ayes.)

2 CHAIRMAN JONES: All opposed, nay. The motion
3 carries. The nay -- that's the motion to table carries.
4 Item 4(b), I believe. Ms. Carrington?

5 MS. CARRINGTON: Thank you, Mr. Chairman. Over
6 the last several months, we have been in discussions with
7 the Office of Rural Community Affairs, otherwise known as
8 ORCA, in discussing the Interagency Contract Between ORCA
9 and TDHCA for the joint administration of the rural set-
10 aside in the Low Income Housing Tax Credit Program, as
11 required in Section 2306.6723 of the Government Code.

12 I have attended three or four ORCA board
13 meetings, where I had an opportunity to discuss not only
14 the tax credit program, but the characteristics of
15 transactions that go into the rural set-aside, and also
16 the Qualified Allocation Plan.

17 You all will remember, I think, two months ago
18 also, that you had a work session. Maybe it was
19 actually --

20 MR. GONZALEZ: November.

21 MS. CARRINGTON: November. Thank you. Oh, how
22 time passes. Committee of this board had a work session
23 with a committee at the -- of the ORCA board. What we
24 have is a -- basically an agreement with ORCA as to how we
25 will jointly administer this rural set-aside, the

1 involvement of ORCA in public hearings, in EARAC Committee
2 meetings, when we review applications that have gone into
3 the rural set-aside, the role of the ORCA board, and
4 helping us develop the criteria for threshold scoring,
5 underwriting.

6 It also says per our statute that the TDHCA
7 board and the ORCA Executive Committee, which is actually
8 their board -- the nine-member board, they call it an
9 executive committee -- will hold a joint workshop prior to
10 the approval of the next year's QAP. ORCA is in agreement
11 with the text of this interagency contract. It does
12 follow and track the language in our statute.

13 I might point out that the effective date is or
14 was September 1, '02, and actually expires on August 31,
15 '03. So we are very close to an expiration of this. But
16 we have been -- I think I first attended an ORCA board
17 meeting in October of last year.

18 So we have been working on the language in this
19 agreement since then. And staff is recommending that the
20 board does approve the authorization of the execution of
21 this contract.

22 CHAIRMAN JONES: Questions? Comments?

23 MS. ANDERSON: I have a comment and a
24 recommendation. And I know we don't have a motion on the
25 floor at present. I have looked at this agreement, and I

1 have reviewed the applicable section of the Texas
2 Government Code.

3 And one of the things that concerns me about
4 this agreement is the -- and I don't see it directed by
5 the Government Code, is the notion of now we have two
6 agencies doing on-site compliance inspections. And this
7 agency is supposed to pay for that, both for our own
8 inspection, which we do now -- compliance stuff we do now,
9 and have -- this agreement contemplates that ORCA will
10 participate in that.

11 So before I take action on this, I would like
12 to have, effectively, a fiscal note from our staff that
13 says, What is the financial impact to this state and to
14 our taxpayers at a time when we have huge -- and our
15 staff's doing a great job of trying to work through all
16 these fluid budget situations for our own agency.

17 And it seems to me we are -- this sets a policy
18 that layers on expense at a time when that is exactly what
19 our taxpayers don't need in this state. And so I'm going
20 to move to table this until we have that information from
21 staff.

22 MR. CONINE: Second.

23 MS. CARRINGTON: May I supply some clarifying
24 information. If the question is on Section 3, Contract
25 Performance, C(2), "ORCA shall participate in the site

1 inspections of all projects proposed under the rural set-
2 aside." Is that the phrase, Ms. Anderson, that you are
3 questioning?

4 MS. ANDERSON: Uh-huh.

5 MS. CARRINGTON: Because what that actually is,
6 is when an application is placed with the department and
7 scored, we do a site inspection prior to making any
8 recommendations to the board. This is not any kind of
9 ongoing monitoring or compliance.

10 MS. ANDERSON: Okay.

11 MS. CARRINGTON: This is saying if it's in the
12 rural set-aside --

13 MS. ANDERSON: Right. My same --

14 MS. CARRINGTON: Okay.

15 MS. ANDERSON: I had my same concern about --
16 you're right. I misspoke. It's not compliance. It's on-
17 site inspection during the application process. Same
18 issue, though. Duplicate expenditure.

19 MS. CARRINGTON: They're actually performing it
20 on behalf of the agency. So we're not going out and doing
21 a site inspection. They're doing it. And we have
22 provided training to the ORCA staff, using our site
23 inspection form. And then we've provided them training,
24 because they're out in these rural areas. And so they
25 would be performing it on behalf of the agency.

1 CHAIRMAN JONES: Let me make sure I understand
2 what you're saying, Ms. Carrington. The inspection under
3 C(2) would be done by them, not by us. Right?

4 MS. CARRINGTON: If it's an application that is
5 in the rural set-aside. Yes, sir.

6 CHAIRMAN JONES: Okay. And we would be the
7 ones that are not rural set-aside?

8 MS. ANDERSON: Correct. And that's because the
9 staff of this agency and ORCA agreed to that, because
10 today we do them. Right? I mean, in prior cycles we have
11 done that.

12 MS. CARRINGTON: In the cycle last year, and
13 help me out, Brooke, but I know that we did training for
14 the ORCA staff. And then did the ORCA staff then conduct
15 the inspections on our behalf, or did we coordinate with
16 ORCA and both agencies go out?

17 MS. BOSTON: Last year, ORCA did the state
18 inspections until -- when CDBG was inside of TDHCA, they
19 actually, because they had those field offices, had
20 already been doing the 9 percent site inspections for us.
21 We -- because of the volume of applications we get,
22 coordinated with CDBG and OCI to have people help us go
23 out and do them. And so when they moved out of ORCA, we
24 still went -- you know, it works better for us since
25 they're already in the rural areas, to go out and do those

1 inspections for us. We just make sure they continue to
2 have the appropriate training.

3 MR. CONINE: Brooke, excuse me. What -- when
4 do those inspections typically take place in the cycle?

5 MS. BOSTON: They generally take place April,
6 May, after a date is entered, and generally, the planners
7 are starting to do some scoring. And then we coordinate
8 on -- we try to do it roughly when they're being
9 underwritten.

10 MR. CONINE: Okay. So we've got some time.

11 CHAIRMAN JONES: Okay. We have a motion
12 from -- on the floor that this particular matter be
13 tabled. And we have a second. Further discussion of the
14 motion?

15 MR. CONINE: The motion will also include a
16 fiscal impact coming back to us next month.

17 CHAIRMAN JONES: Right. And I think my
18 understanding is that would go to the fiscal impact of
19 c(2). Correct? I want to make sure I understand it.
20 Correct, Ms. Anderson?

21 MS. ANDERSON: Yes.

22 CHAIRMAN JONES: Thank you. So we have a
23 motion on the floor.

24 MR. CONINE: Is that the case? Or do you want
25 the fiscal impact of the whole agreement?

1 MS. ANDERSON: Well --

2 MR. CONINE: I mean, I think we ought to take a
3 look at the whole thing, because I for one have never seen
4 any sort of numbers on this. And I think I am -- I agree
5 with Ms. Anderson, on the duplication of effort scenario.

6 And it would take an examination of the whole document to
7 just -- you know, it may not -- none of it may be
8 duplicative. I don't know. But let's just take a look at
9 it and see. We can vote on it next month.

10 MS. ANDERSON: Well, yes. That would be a good
11 idea, because there are other things, like going to all
12 the public -- the -- like public hearings, all the QAPs
13 being developed. I mean, there is several cases where you
14 will have clearly purely incremental expense.

15 CHAIRMAN JONES: We have a motion on the floor
16 that I think Mr. Conine has well-defined it. Any further
17 comments, questions, discussion?

18 (No response.)

19 CHAIRMAN JONES: Hearing none, I assume we're
20 ready to vote. All in favor of the motion, please say,
21 aye.

22 (A chorus of ayes.)

23 CHAIRMAN JONES: All opposed, nay. The motion
24 carries. We will then turn to Item 4(c) on the agenda.
25 Ms. Carrington?

1 MS. CARRINGTON: Thank you, Mr. Chairman. We
2 are requesting extension -- the developer is requesting
3 extension of a deadline to commence substantial
4 construction. It's a 2001 tax credit allocation, Autumn
5 Oaks at Corinth Apartments.

6 The new deadline, actually, requested by the
7 developer, was June 11, '03. But what the staff is
8 recommending is April 30, 2003.

9 CHAIRMAN JONES: Is there a motion?

10 MR. CONINE: Yes. These kind of things burn me
11 up. I need to hear the story behind this deal. So
12 somebody tell me the story. I mean --

13 CHAIRMAN JONES: Well, we don't want Mr. Conine
14 on fire.

15 MS. CARRINGTON: Okay. Well, I can tell you --

16 MR. CONINE: Turn the fan up.

17 MS. CARRINGTON: I will tell you part of the
18 story, which is actually in the paragraph on the summary
19 of the request, that the City of Corinth has an unusual
20 zoning requirement that all infrastructure be completed
21 and all foundations poured prior to the start of any
22 framing.

23 What staff has done is there have been several
24 extensions. Down at the bottom of your sheet you'll see
25 prior extensions on the project. Construction loan,

1 closing was extended. And then commencement of
2 construction was also extended. And the board did grant
3 those, or they were either administratively granted or
4 board granted.

5 So of course, as that happens, then it backs up
6 everything else. It is my understanding that the
7 foundations have all been poured on this transaction, and
8 that framing is beginning to be underway. But they still
9 need until -- because they have a current deadline of
10 March 11, which was two days ago.

11 They missed that deadline. As I said, they did
12 ask us to June 11, but we looked at the progress they were
13 making, and said, We believe that they can have met this
14 deadline by April 30. We don't want to give them any more
15 time. We want to give them enough time to be able to meet
16 the City of Corinth's request, but not until June 11.

17 MR. CONINE: Okay. Move for approval.

18 CHAIRMAN JONES: Motion's been made. Is there
19 a second?

20 MR. GONZALEZ: Second.

21 CHAIRMAN JONES: Questions, comments?

22 (No response.)

23 CHAIRMAN JONES: Hearing none, I assume we're
24 ready to vote on the motion. All in favor of the motion,
25 say aye.

1 (A chorus of ayes.)

2 CHAIRMAN JONES: All opposed, nay. The motion
3 carries.

4 We can all turn to Item 4(d) of the agenda.
5 And I think there are several speakers. In fact, I think
6 there are one, two, three, four, five, six that would like
7 to speak on 4(d). Why don't I let you all choose your
8 order. Would that be best? Okay.

9 MS. BAST: Good afternoon. Thank you for the
10 opportunity to be here. I am Cynthia Bast of Locke,
11 Liddell and Sapp. We represent the owner of the King
12 Fisher Creek Apartments here in Austin. And we have filed
13 this request for relief on behalf of the owner.

14 Our request for relief is included in your
15 board book. Briefly, the King Fisher Creek Apartments
16 received an allocation of \$225,813 of tax credits in 2000.

17 The complex was required to place all of its
18 buildings in service by December 31, 2002. Due to
19 extraordinary circumstances outside the control of the
20 owner, the complex was unable to place all of its
21 buildings in service by that deadline. As a result, the
22 department sent a letter in January 2003 revoking the tax
23 credits allocated to this complex.

24 What is not in your board book is a description
25 of the extraordinary circumstances that led to this

1 result. The TDHCA staff has received reams of information
2 on these circumstances, and they have been kept informed
3 throughout the process.

4 We have here several members of the development
5 team, who will describe what happened with regard to this
6 complex. Then Ryan Luxon of Muni Mae Midland will
7 describe the financial implications of the loss of tax
8 credits. And then I will finish with a brief summary of
9 the tools that the board can use to help us remedy this
10 extraordinary situation. And so I will turn it over to
11 Tom McMullen.

12 MR. McMULLEN: Good afternoon.

13 CHAIRMAN JONES: Good afternoon.

14 MR. McMULLEN: I would like to pass out a time
15 line. Would that be permissible?

16 CHAIRMAN JONES: Delores will take care of that
17 for you.

18 MR. McMULLEN: I appreciate the honorable
19 members of the board, distinguished staff hearing us. My
20 name is Tom McMullen. Our request before you today is
21 very difficult to make. It's very humbling, and it's --
22 has a degree of embarrassment to it.

23 Until now, over the past 15 years, we have had
24 what I feel is an exemplary track record both inside the
25 State of Texas as well as outside of Texas. We failed to

1 meet the placed in service deadline of 12/31/02 of the
2 department.

3 We made all of the tax credit deadlines, except
4 that we received one extension for the substantial
5 construction commencement, and we have made all of our
6 deadlines in all of our past projects here in Texas. And
7 we never requested an extension, other than the one.

8 We have been engaged in a almost a chess match
9 with the neighborhood association, who has done everything
10 they can to thwart our project. A huge difference between
11 the City of Austin's code and other cities is that the
12 code in Austin allows upon registration a neighborhood
13 association to have standing in all permitting processes.

14 So what that means is that when a permit is
15 issued, or when an administrative decision is made, the
16 neighborhood association has up to 20 days to file an
17 appeal. And this particular neighborhood association did
18 that every chance that they had the opportunity to do
19 that.

20 What happens is, the appeal must be heard by a
21 city board or a commission. And even if it's frivolous,
22 it delays us. So you can get a delay of anywhere from two
23 months to five months on any particular issue. And there
24 are several permitting processes here in Austin. So it
25 really condensed our time down to build the project into

1 five or six months.

2 And while that appeal is pending, you must stop
3 all construction. And the permitting process stops. So
4 if it's -- it's tragic.

5 The fact of the matter is, is that these
6 neighborhood tactics were designed to cause us to miss
7 threshold department deadlines. Given that we only
8 received one extension from your department, the -- you
9 know, in spite of that, we made all the deadlines except
10 for the one.

11 This particular association did not object to
12 our project during the public hearing process in 2000 when
13 the credits were awarded. In fact, we had a lot of
14 support on the record, on the official transcript.

15 We spent an additional \$200,000 on
16 architectural, legal, engineering expenses, just designed
17 to satisfy the objections -- the stated objections of this
18 neighborhood, to reconfigure, redesign, and address
19 concerns.

20 If the tax credits are not restored by this
21 board, that poses a small possibility -- we -- because we
22 don't know what's going to happen. We're trying to get
23 through this today. And then we -- you know, I guess
24 we'll try to restructure the project if we have to. But
25 we don't know where we are.

1 Whatever happens, this project, in all
2 likelihood, will not become a condominium project. And I
3 say that because the neighborhood -- it's been conveyed to
4 us that the neighborhood thinks, Well, if we don't have
5 our tax credits restored, it can become a condominium
6 project.

7 But we did not design this project as a
8 condominium project. It doesn't have the amenities to
9 sell it as a condominium project. So that's really not in
10 eventuality what's going to happen. It's got a strong
11 likelihood of losing its appeal and desirability, because
12 we'll have to scale down amenities and so forth. And
13 we'll lose the affordability to the rental community.

14 We have kept moving since the expiration of the
15 place and service deadline in order to keep our promises
16 to the department, and at great risk to ourselves. We
17 continue to build. We funded draws. We have continued to
18 do this without knowing the board's action on our request.

19 We have kept it moving, being that we feel that
20 we were obstructed from making the placed in service
21 deadline, and that we cannot -- you know, hopefully, we
22 cannot envision this board not restoring the tax credits.

23 We've kept the project moving, because the rules are in
24 place to ensure timely completion of affordable housing
25 projects.

1 The rules were not written, I don't think, to
2 be used by an opponent of the project as a tool to kill a
3 project.

4 CHAIRMAN JONES: Could you wind up, please.

5 MR. McMULLEN: Yes, sir.

6 CHAIRMAN JONES: Thank you.

7 MR. McMULLEN: Rules are fine. But when we are
8 obstructed at every turn, and in fact, prevented from
9 meeting a deadline, the rules allow the department to
10 grant leave under several provisions of the QAP.

11 Certainly rules are not in place to penalize a
12 willing developer, his lender and investors, given these
13 types of circumstances. We humbly ask for mercy from the
14 board.

15 And I would like to introduce two members of
16 our team that will explain the specifics of the types of
17 things that happened to delay us at this point. Mr. Carl
18 Conley, and Mr. Bill McLean.

19 MR. CONLEY: Members of the board, my name is
20 Carl Conley, and I own Conley Engineering. I've worked in
21 the Austin area for over 30 years in commercial and
22 residential land development, and have over 300 projects
23 in which we've dealt with. And without a doubt, this has
24 been one of the most difficult processes we've had to deal
25 with.

1 This project began in August 2000, and onto the
2 completion -- toward the completion in the latter part of
3 this last year. The typical project -- it runs 12 to 18
4 months. And this project has run over two years, due to
5 the extended delays caused by the involvement of the
6 neighborhood.

7 We began the project again in August 2000, with
8 a site plan that TDHCA had seen and approved. We had
9 zoning on the property for 36 units. We don't look just
10 to build only 35.

11 The property was a legal tract, and did not
12 need to go through the subdivision process. And we had a
13 letter from the City of Austin regarding the availability
14 of utilities, including domestic and fire flows.

15 We also had a letter of support from the City
16 of Austin for an affordable housing development section.
17 We chose to participate in the City's S.M.A.R.T. Housing
18 Project, which required us to meet with the neighborhood,
19 and get their input.

20 During the site plan process, the neighborhood
21 requested us to lower our density from 35 units to seven
22 or eight units, which was economically unfeasible. At
23 some point during the process, we offered to reduce it to
24 28 units, and that was not acceptable to the neighborhood.

25 During the process, the neighborhood contacted

1 some of the environment elements of Austin at a time that
2 was -- gave us very short notice to address. We worked
3 with the City staff and provided additional setbacks from
4 waterways, and what appeared to be elements of
5 environmental concern.

6 The developers also sought to add 1.5 acres of
7 additional land to the property with no increase in the
8 number of units, to help reduce the density of 12 units to
9 the acre down to 7.7 units to the acre.

10 Doing this triggered the need to go into the
11 city zoning and subdivision process. This process added
12 about 60 to 90 days to the project. During the zoning,
13 the property was thought to be reduced from --

14 MR. CONINE: Could I stop you right there?

15 MR. CONLEY: Yes, sir?

16 MR. CONINE: If you added an acre and a half,
17 or whatever it was, to an already-approved density, why
18 was that decision made, other than just to try to appease
19 the neighborhood?

20 MR. CONLEY: It was designed to appease the
21 neighborhood and to provide additional environmental
22 setbacks, as requested by the City of Austin, and to
23 basically just provide a better project.

24 MR. CONINE: So 35 units that were designed on
25 the -- whatever amount of acreage you had before you

1 bought the one and a half did not meet all the
2 environmental setbacks the city had asked for, or any
3 other criteria, maybe?

4 MR. CONLEY: They did meet all the
5 environmental setbacks. There was some issues about some
6 areas that were perceived possibly to be wetlands. Again,
7 they weren't definitive, but we worked with the
8 neighborhood, and also with the city staff particularly to
9 create these additional setbacks.

10 MR. CONINE: Could the project -- in your
11 opinion, could the project have been built without the
12 other acre and a half?

13 MR. CONLEY: The end result was that we did
14 build the project on the three acres within the city's
15 rules, without variance. Yes, sir.

16 MR. CONINE: So you didn't need the acre and a
17 half, which caused the other 90-day delay, or whatever it
18 was?

19 MR. CONLEY: That is correct.

20 MR. CONINE: Okay.

21 MR. CONLEY: The neighborhood, again, fought
22 the project against the rezoning of the additional acre
23 and a half, citing the additional traffic, the
24 unavailability of booths at the post office, lack of
25 grocery stores, and just the various sundry items to

1 downplay or degrade this particular project.

2 The city denied the zoning, based on
3 perceptions by the neighborhood association saying that we
4 would need possibly additional variances, and they didn't
5 want to support that. Basically, we came back again with
6 a site plan that did meet all the city's requirements,
7 without variance, and obtained approval of that site plan.

8 Also part of this 1.5 acres was the requirement
9 to subdivide the property. The original three acres did
10 not require subdivision. And again, the neighborhood
11 fought this through an issue called the balance of the
12 tract issue, again, describing that the balance of the
13 tract is there for the orderly planning of roadways and
14 utilities.

15 Again, our tract did not require any extension
16 of roads, and -- nor any additional utilities at that
17 time. This process, again, added another 30 to 45 days to
18 the process. We even offered the adjoining property
19 owners to join into our subdivision, and they also
20 declined.

21 Off-site water and fire flow became an issue.
22 It was determined that the city's mains, because of the
23 way the city was operating their system, did not have
24 adequate fire flow, not only for our project, but even the
25 neighborhood.

1 We originally started with a letter from the
2 city that says that there was adequate water available to
3 this project. The existing water line was also damaged
4 during our project, when the city was in the process of
5 reconstructing the road.

6 And at that time, they just determined that
7 they needed to replace that line with a 16-inch water
8 line, which they took the opportunity as the fact that we
9 needed to get water. They offered us an opportunity to
10 participate in the reconstruction of that, which would
11 have added three to \$400,000 additional costs.

12 That represented approximately 85 percent of
13 the cost of the 16-inch water line. We met with the city,
14 renegotiated based on our demands. And the percentage was
15 reduced from 85 down to 13 percent. But this required a
16 City of Austin City Council approval.

17 We worked with city staff, got the
18 participation from the City Council. And because of the
19 neighborhood opposition and conversations with other city
20 staff, the water and wastewater department director at the
21 last minute --

22 CHAIRMAN JONES: Please wind up, sir.

23 MR. CONLEY: I'll be --

24 CHAIRMAN JONES: Thank you.

25 MR. CONLEY: I'll be right there. The City of

1 Austin director of water and wastewater withdrew the
2 opportunity to participate, and we went back to another
3 alternative that we proposed at the beginning of the
4 project, but was denied because we needed to go through
5 this other participation process.

6 During this time, like a similar case that you
7 heard a minute ago, we were not allowed to go into
8 vertical construction until the fire protection --
9 adequate fire protection was there.

10 Basically at the end, this entire project was
11 approved as originally started. Again, we went through
12 all these efforts to work with the neighborhood, meet
13 their needs, meet the City of Austin's needs. And the
14 total extension of time added by these processes was
15 between 195 and 285 days.

16 If any one of these process was deleted, we
17 would have had another 45 to 60 days, and the project
18 could have probably been completed.

19 CHAIRMAN JONES: Thank you, sir.

20 MR. CONLEY: Thank you.

21 CHAIRMAN JONES: Mr. McLean.

22 MR. McLEAN: Thank you, and good afternoon. My
23 name is Bill McLean. I'm with the firm of McLean and
24 Howard. During the events that I'm going to describe, I
25 was with the firm of Minton, Joseph, and Thornhill.

1 One of my areas of practice for the last seven
2 years is land use and land development law. That often
3 involves me in the City of Austin's permitting process.
4 In this particular case, we were brought in at the request
5 of Mr. Conley to assist with some legal issues around
6 January '02 time frame.

7 After becoming involved in the process, it
8 became apparent to me that the neighborhood's intention in
9 this case, or at least one of their objectives was to
10 delay and obstruct the City of Austin process with an eye
11 for the deadlines imposed by this department.

12 And having heard a broad description of the
13 events that occurred at the city from Mr. Conley, I'd like
14 to focus on one specific occurrence that I think
15 illustrates the tactics that were employed by the
16 neighborhood.

17 And that is that the way that they dealt with
18 the approval of two different permits, for simplification
19 purposes, I'm going to refer to them as the plat approval
20 and the building permit approval.

21 Both of which were appealed by the
22 neighborhood, but in different ways. The plat approval --
23 the City of Austin code requires that the plat not be
24 considered final and recorded with the county until such
25 time as the appeal time period has basically expired, just

1 to make sure that no one -- no interested party files an
2 appeal.

3 That's a 20-day time period. The neighborhood
4 filed their appeal on the last day of the appeal time
5 period. Their appeal consisted of a half-page letter
6 that, in my estimation, wouldn't have taken more than a
7 couple of hours at the most to prepare.

8 After the appeal was filed, the matter of the
9 appeal has to be scheduled before the zoning and planning
10 commission of the city. The city staff had discussions
11 with the neighborhood about the effect of the appeal time
12 period, and basically, it was made known to the
13 neighborhood that the appeal time period would forestall
14 any development.

15 The bottom line is that that maneuver by the
16 neighborhood cost the project about 50 days by the time
17 it -- the appeal time period ran, the appeal was filed,
18 and the matter was scheduled for hearing.

19 On the other hand, the building permit
20 approval is appealable, but it does not have a set time
21 frame under which construction must cease, until the time
22 period runs.

23 The appeal to the building permit was filed the
24 day after the building permit was approved, and consisted
25 of a letter of about the same length as the appeal to the

1 final plat. In essence --

2 CHAIRMAN JONES: Could you wind up, please,
3 sir?

4 MR. McLEAN: Yes, sir.

5 CHAIRMAN JONES: Thank you.

6 MR. McLEAN: In essence, there is no logical
7 reason for the difference in how the two appeals were
8 handled, other than to delay the project. Thank you.

9 CHAIRMAN JONES: Thank you. Another zoning
10 matter?

11 MR. CONINE: It's after the fact.

12 MR. SALINAS: It's after the fact. If Planning
13 and Zoning had approved it, I mean, what's the delay?

14 CHAIRMAN JONES: Mr. Luxon, I think, is the
15 last person.

16 Is that correct, Ms. Bast?

17 MS. BAST: Yes. And then if I could have the
18 rest of my three minutes to summarize it.

19 CHAIRMAN JONES: Okay.

20 MR. LUXON: Good afternoon, Mr. Chairman,
21 members of the board.

22 CHAIRMAN JONES: Good afternoon. How are you?

23 MR. LUXON: Good. My name is Ryan Luxon. I am
24 the assistant vice president for Muni Mae Midland, or
25 National Affordable Housing Syndication firm. We provide

1 the construction lending, the forward commitment for
2 permanent finance, as well as the purchase of the tax
3 credits to be generated by the project that's before you
4 today seeking relief.

5 This project is exemplary of how the programs
6 can be used effectively to provide housing in areas that
7 are otherwise very difficult in which to have subsidized
8 housing.

9 The total cost in this 35-unit property was
10 over 4.1 million. That's \$117,000 per unit in development
11 expenses. The state recognized this. It was in a high-
12 cost area and was subject for 130 percent eligible basis
13 increase.

14 As Cynthia mentioned earlier, the property had
15 a 2000 allocation of \$225,813 in credits, which is
16 substantially less than what the project was eligible for
17 under a basis calculation.

18 The eligible basis is approximately 3.1 million
19 prior to the high-cost area increase. After applying the
20 130 percent increase, we had a \$4,075,000 eligible basis,
21 which would have had \$320,000 in credits allocated.

22 This leverage is an example of how we try and
23 use the programs to further affordable housing goals of
24 the state. In addition to that, Mr. McMullen mentioned
25 that \$200,000 of the costs that were attributed to this

1 came up after the application process.

2 Because of the credit cap, this \$200,000 came
3 directly out of project expenses, and there is sometimes
4 the notion that the development community is getting rich
5 off of these transactions. This is a case where that
6 \$200,000 came straight off the bottom line, and was not
7 made an available source of funds to property as the uses
8 increased.

9 To date, our company has funded approximately
10 \$3 million in this transaction. We provided the
11 construction commitment in June in accordance with the
12 TDHCA guidelines, at which point our permits were still in
13 process, and another syndicator had a commitment to
14 purchase the tax credits.

15 In January, when the permits had not yet been
16 issued, the other syndicator exited the market, was no
17 longer a participant, and to maintain our commitments to
18 TDHCA and the property, we agreed to step into the shoes
19 and buy these credits. We --

20 CHAIRMAN JONES: You need to wind up, sir.
21 Thank you.

22 MR. LUXON: Yes, sir. We've been committed to
23 this property since. And we ask that you help us to
24 continue the long-term viability of these units in Austin.
25 Thank you.

1 CHAIRMAN JONES: Thank you. Ms. Bast, since
2 you've got one at a time, let me tell you one thing that
3 I'm thinking. I've listened to the arguments, but the
4 arguments that there are certain citizens out there that
5 kind of pursued their rights does not sway me a whole lot.

6 So I'll let you have that, to know where, at least I sit,
7 as you make your closing statement.

8 MS. BAST: Sure. I understand. It is
9 certainly hard to compress two years of development
10 activity into some brief three-minute statements here.

11 CHAIRMAN JONES: Certainly.

12 MS. BAST: What we hope to help you understand
13 is that a whole lot of things came together to create a
14 very unusual circumstance for this property. We had the
15 City of Austin, which had certain code, that gives certain
16 rights.

17 We had a neighborhood that became opposed to
18 this project after the office -- after the award of tax
19 credits, and did as much as they could to delay it. It
20 created tremendous developmental hurdles for this project.

21 Now these circumstances have put the affordable
22 housing units in jeopardy. The housing units can be
23 preserved if this board will reallocate the tax credits
24 back to the King Fisher Creek Apartments.

25 Section 49.17 of the 2003 QAP allows this board

1 to do just that. It says, "The department may, at any
2 time and without additional administrative process,
3 determine to award credits to projects previously
4 evaluated and awarded credits, if it determines that such
5 previously-awarded credits are or may be invalid and the
6 owner was not responsible for such invalidity."

7 This provision has been in the QAP for quite a
8 while. It was in the QAP in the year 2000, when the tax
9 credits were originally awarded. It's an extraordinary
10 remedy, in the QAP for a purpose, to give the board
11 authority to handle unusual circumstances.

12 This remedy is consistent with Section 42(m) of
13 the Internal Revenue Code, which allows a housing finance
14 agency to allocate credits in a manner that deviates from
15 the established priorities and selection criteria of the
16 QAP.

17 King Fisher Creek Apartments had \$225,813 of
18 tax credits. If these tax credits are made a part of the
19 2003 pool, and spread among the service regions as
20 required, they would have little impact on the overall
21 statewide allocation. Yet, if the tax credits are
22 returned to the King Fisher Creek Apartments, as we are
23 requesting, it will preserve the affordability of a
24 housing complex that is now in jeopardy.

25 We hope this board will use it's authority to

1 remedy and extraordinary circumstance, and reallocate the
2 tax credits back to King Fisher Creek Apartments. Thank
3 you.

4 CHAIRMAN JONES: Thank you. That's all the
5 public comment I think we have on this particular point.
6 Is that true? Then we'll close public comment on that
7 point.

8 MR. CONINE: I thought I'd heard it all until
9 now. This is an incredible story. Well -- what --
10 Cynthia, I guess, or maybe Tom, somebody, where is the
11 project today? How many units are occupied, finished?
12 And how long is it going to take you to finish it?

13 MR. McMULLEN: We -- building 1 was habitable
14 at the end of the year. Building 2 is habitable now.
15 Building 3 will -- we focused our -- since the beginning
16 of the year on the finish-out on building 1 and 2.
17 Building 3 is moving, but it's slow. We're trying to see
18 what might transpire here.

19 MR. CONINE: Wait, wait a minute. Translate
20 that for me. Is it framed? Is it roofed? Is it sheet-
21 rocked?

22 MR. McMULLEN: Building 3? No, it's not.

23 MR. CONINE: Nothing?

24 MR. McMULLEN: No. No, sir.

25 MR. CONINE: Is the slab on the ground?

1 MR. McMULLEN: No. Just some plumbing.

2 MR. CONINE: Okay. So you're not going to
3 finish it for another eight months, to put that money in
4 service.

5 MR. McMULLEN: No, we estimate --

6 MR. CONINE: Six months?

7 MR. McMULLEN: No. No, we think that's -- it's
8 60 days to finish out that building.

9 MR. CONINE: How many units are in that
10 building?

11 MR. McMULLEN: Let's see. That would be --
12 it's approximately -- I think I'm going to say ten or 12
13 units in that building. It's not a very large -- it's
14 only 35 units in the whole project.

15 MR. CONINE: How come you weren't here back in
16 November or October before the credits actually expired,
17 when you knew you couldn't make it?

18 MR. McMULLEN: Candidly, I thought we would
19 make it. We just didn't make it.

20 MR. CONINE: Because of rain and everything?

21 MR. McMULLEN: Rain was an issue. We had --
22 between July and November, we had 55 rain days trying to
23 finish up the site work. And so it wasn't just the 55
24 rain days. It was drying-out days. And so it was in
25 November we started framing.

1 MR. CONINE: Ms. Carrington, if we
2 reallocate -- are we reallocating the two -- or restoring,
3 if you will, the 2000 credits? Is that what we're being
4 asked to do?

5 MS. CARRINGTON: We have -- you have two
6 options outlined in front of you, and in the QAP. One of
7 them would be the credits that we have effectively
8 cancelled on this transaction would go into the 2003
9 regional allocation formula.

10 So one option for the board would to be -- and
11 since we haven't allocated the '03 credits yet, those
12 credits are still out there. So the board could direct us
13 to reallocate those credits that we have rescinded back to
14 this development.

15 So that is one remedy. That's one course that
16 the board could take. The other would be to make a
17 forward commitment. This property, of course, is located
18 in Austin. And the Austin region, you will remember, did
19 not have an allocation of tax credits in '03 per the
20 regional allocation formula.

21 So another option would be to do a forward
22 commitment out of the '03 allocation into '04 for this
23 particular development.

24 MR. CONINE: Why don't we go forward and burn
25 up credits in the future when we could restore those that

1 were in the past?

2 MS. CARRINGTON: I think we're just saying that
3 that is an option for you.

4 MR. CONINE: Okay.

5 MS. CARRINGTON: We wanted to lay out the
6 options.

7 MR. CONINE: Is there enough money left in the
8 loan facility to finish the job? Or are you going to run
9 into financial hurdles in the future?

10 MR. McMULLEN: Well, certainly work -- there
11 are financial hurdles about the equity. There is 1.7
12 million in equity that's effectively gone away.

13 MR. CONINE: Let's assume it stays in the
14 project. Have you got -- are you going to be able to meet
15 the underwriting criteria for the loan and the equity once
16 you get the project finished in 90 days, let's say?

17 MR. McMULLEN: Well, all the financing is
18 already in place. It's -- so we've already passed all
19 those hurdles.

20 MR. CONINE: So you can finish it for what
21 you've got left in it?

22 MR. McMULLEN: Yes, sir.

23 MR. CONINE: Is the first building leased up?

24 MR. McMULLEN: No, sir. We did not want to
25 pull a CO -- or a final CO, due to the tax implications.

1 And secondly, it's a small site. The other reason is,
2 it's a small site, and we're going to lease all of them at
3 the same time. We need the room to work.

4 MR. CONINE: Where is this project located at?

5 MR. McMULLEN: Off of St. Elmo Road, which is
6 south -- southeast quadrant of Austin.

7 MR. CONINE: I move for the restoration of the
8 2000 credits.

9 CHAIRMAN JONES: We have a motion. Do we have
10 a second?

11 MR. GONZALEZ: Second.

12 CHAIRMAN JONES: The motion's been made and
13 seconded. Further discussions, questions, comments?

14 MS. CARRINGTON: Maybe some clarification.

15 CHAIRMAN JONES: Yes, ma'am.

16 MS. BOSTON: Thank you. When you said
17 restoration of 2000 credits, I just want to reclarify that
18 it's not a restoration of 2000 credits. Those credits are
19 being turned into the 2003 ceiling, which we're required
20 to do by the IRS. And then they'll be getting an
21 allocation of 2003 credits.

22 And the other thing I wanted to clarify is that
23 this entitles them to move forward with their cost-
24 certification process. But we're not talking about
25 issuance of 8609s yet. They'll still have to turn in

1 their cost certification documents and meet our review,
2 which kind of hadn't been brought up.

3 MS. ANDERSON: Can I ask a question?

4 CHAIRMAN JONES: You certainly may.

5 MS. CARRINGTON: Got it?

6 MS. ANDERSON: But the 225 in credits, or
7 whatever, that were 2000 credits. And now you say that
8 they're really 2003 credits? But you take the 225 and add
9 it to the existing 2003 credit --

10 MR. CONINE: Yes. It went into the bucket, and
11 it's coming out of the bucket.

12 MS. ANDERSON: Okay.

13 MS. CARRINGTON: Yes. It does not subtract the
14 amount -- does not reduce the amount of '03 credits that
15 we would have to allocate.

16 MR. CONINE: It's a technicality. I --

17 MS. ANDERSON: Okay. Yes.

18 MR. CONINE: My tongue slipped.

19 CHAIRMAN JONES: Surely not.

20 MR. GONZALEZ: I'll second that motion.

21 MS. CARRINGTON: Which one? His tongue
22 slipped?

23 CHAIRMAN JONES: Okay. We have a motion that's
24 been made and seconded. Further questions, comments,
25 discussion?

1 (No response.)

2 CHAIRMAN JONES: Hearing none, I assume we're
3 ready to vote. All in favor of the motion, please say
4 aye.

5 (A chorus of ayes.)

6 CHAIRMAN JONES: All opposed, nay?

7 MR. SALINAS: One. I --

8 CHAIRMAN JONES: You're for aye or nay?

9 MR. SALINAS: Nay.

10 CHAIRMAN JONES: Nay. Okay. The motion
11 carries.

12 MR. SALINAS: I think we should not set a
13 precedence here on other future --

14 MS. CARRINGTON: I agree.

15 MR. SALINAS: You know, it's 2003. This
16 happened in 2000, 2000. So we should not deny anybody
17 else that asks the same thing. The problem with the
18 zoning in the City of Austin is something we can't
19 control, and those things have already been restored to
20 2003, and we should do the same for everybody else if
21 we're going to do this today.

22 CHAIRMAN JONES: Thank you, Mayor. All right.
23 We will then move to Item 5 on the agenda. Ms.
24 Carrington?

25 MS. CARRINGTON: Thank you, Mr. Chairman. I'd

1 like to move to -- it's an allocation of HOME funds, which
2 I think we're going to be straightforward, and probably
3 shouldn't warrant much discussion.

4 MR. CONINE: I wouldn't say that.

5 MS. CARRINGTON: But I would never say that,
6 Mr. Conine.

7 CHAIRMAN JONES: Would you keep Conine quiet?

8 MS. CARRINGTON: No, I would never want to keep
9 any of you all quiet.

10 At the board meeting last month, you awarded
11 \$2,716,727 in HOME funds to six different projects around
12 the state. The department put out a NOFA in early --
13 earlier this year, actually, in November.

14 We had 8.3 million to allocate. So we actually
15 allocated funds to six out of 24 applications. At that
16 board meeting in February, we talked about some of the
17 reasons for the small number of awards that were
18 recommended.

19 And the HOME staff indicated that they believed
20 that there were several of these applicants that they
21 could go back and work with and produce -- or help them
22 work to develop an application that would score
23 sufficiently.

24 So what we have done is gone back, and we have
25 three additional recommendations to you for a total of

1 \$580,125. Should the board approve this today, we will
2 have then allocated approximately four million of the 8.3
3 million that's available in the CHDO funding cycle, which
4 is the Community Housing Development Organization cycle.

5 And as you all will remember, there is a
6 portion of the HOME fund that are set aside specifically
7 for CHDOs. So on the next page after your summary, you
8 will see the three recommendations of staff.

9 HBA stands for Homebuyer Assistance. Basically
10 what this is is down payment assistance. The third one,
11 Homebuyer with Rehab, Homebuyer Assistance, and Owner-
12 Occupied. So some Homebuyer Assistance, and some -- also
13 some Rehabilitation.

14 And the three groups are Bayou Housing
15 Partners, Grayson County CDC, and Affordable Housing of
16 Parker County.

17 CHAIRMAN JONES: Thank you, Ms. Carrington.

18 MR. CONINE: Move for approval.

19 MR. SALINAS: Second.

20 CHAIRMAN JONES: The motion for approval has
21 been made and seconded. Further discussions, questions,
22 comments?

23 (No response.)

24 CHAIRMAN JONES: Hearing none, I assume we're
25 ready to vote. All in favor of the motion, please say

1 aye.

2 (A chorus of ayes.)

3 CHAIRMAN JONES: All opposed, nay? The motion
4 carries. 5(b)?

5 MS. CARRINGTON: Thank you, Mr. Chairman. Item
6 5(b) is the approval of the department's 2003 public
7 housing agency, or PHA plan. As you heard earlier today
8 from John Henneberger, John has no problems with our plan.

9 This is something that we are required to do on
10 an annual basis. This will be our plan for fiscal year
11 beginning July '03. It's due in April to HUD. The
12 department administers 11,400,000 in vouchers in three
13 areas around the state. Those vouchers are located in the
14 Fort Worth area, around the Houston area, around the San
15 Antonio area.

16 It's a total of \$2,071 vouchers. And staff is
17 requesting that the board approve this plan today, and
18 that our subsequent submittal of this plan to HUD.

19 MR. CONINE: Move for approval.

20 MR. SALINAS: Second.

21 CHAIRMAN JONES: Motion's been made and
22 seconded. Further questions, discussions, comments?

23 MS. ANDERSON: I just have one -- I have a
24 question.

25 CHAIRMAN JONES: Please.

1 MS. ANDERSON: And I've probably asked this
2 question last year. You know, these are in these urban
3 areas, and they're like 2,071 vouchers. How come the
4 local PHAs in those jurisdictions don't have those and we
5 do? I mean, why are we in this business?

6 MR. FARISS: Those are either administrating
7 communities that are too small to have a public housing
8 authority --

9 MS. ANDERSON: Fort Worth, San Antonio and
10 Houston?

11 MR. FARISS: Well, there --

12 MS. CARRINGTON: It's the area.

13 MR. FARISS: That's the area that --

14 MS. CARRINGTON: That's the area around.

15 MR. FARISS: That's the regional HUD office
16 that, you know, oversees those vouchers. But it's not
17 within the public housing authority of San Antonio or
18 Houston.

19 MS. ANDERSON: So it's like a Burleson, or
20 somewhere outside of Fort Worth, not in Fort Worth?

21 MR. FARISS: Right.

22 MS. ANDERSON: Okay. And the reason we do this
23 is because there is no PHA in Burleson. Right?

24 MR. FARISS: Right. Or the PHA is so small
25 that they've asked us to administer their vouchers on

1 their behalf.

2 MS. ANDERSON: Okay. Thank you.

3 MS. CARRINGTON: And as sort of an interesting
4 addition to this is, of course, I'm sure some of the board
5 has been paying attention.

6 There is a discussion going on at the federal
7 level to block grant all of the Section 8 to the states,
8 and then it would be up to the states to determine how we
9 wanted to administer that, whether it was through existing
10 housing authorities around the state, or whether the state
11 would want to increase that number of vouchers from 2000
12 to probably several hundred thousand vouchers around the
13 state. So certainly a discussion is going on at HUD right
14 now.

15 CHAIRMAN JONES: I was going to ask the staff
16 to comment on that afterwards.

17 MS. CARRINGTON: I'd be happy to comment on it
18 now. That's what we know is going on. I will tell you
19 I've had a couple --

20 MR. CONINE: Are you in favor of that
21 discussion?

22 MS. CARRINGTON: I'll tell you I've had a
23 couple of housing authorities call me and say, if this
24 should happen, that they would like to be considered as the
25 administrator for the State of Texas.

1 MR. CONINE: That wasn't what I asked. I said,
2 Are you in favor of that discussion?

3 MS. CARRINGTON: Mr. Conine, we will implement
4 whatever the Federal law tells us to implement.

5 CHAIRMAN JONES: She feels strongly both ways.

6 We have a motion on the floor that's been made and
7 seconded. Further questions, comments, discussion?

8 (No response.)

9 CHAIRMAN JONES: All in favor of the motion,
10 please say aye.

11 (A chorus of ayes.)

12 CHAIRMAN JONES: All opposed, nay? Motion
13 carries. 5(c).

14 MS. CARRINGTON: 5(c) -- this is an item that
15 the board is required to act on annually. The portfolio
16 of multifamily properties that we're talking about here --
17 there are eight of them, and they are the older, tax
18 exempt bond transactions, what we used to call the old
19 80/20 deals. Twenty percent of the units have to be
20 leased to families at 80 percent of the median, not
21 adjusted for family size.

22 When the '86 Tax Act came in, it substantially
23 changed those targeting requirements. Because of language
24 in those early financing documents, the language says that
25 the board has to annually review the income limits for the

1 tenants, not for the 20 percent of the tenants, but
2 basically for the other 80 percent of the tenants.

3 So there is this eligible tenant definition.
4 And several years ago, the board determined that the
5 definition of the area median income that the agency would
6 use to determine what that eligibility limit was would be
7 to Dallas, the AMI.

8 So that was determined several years ago,
9 actually in 1992. The board established 110 and 140
10 percent of the Dallas AMI as the eligible tenant income
11 limit.

12 So basically what all of this means is that
13 something you all have to look at on an annual basis, and
14 I'm told basically by staff on an annual basis, the board
15 says, Now, why is it we're looking at this?

16 And it's because of these old transactions. If
17 you go to the second page of your summary, you'll see that
18 the 140 percent limit, which is the move in limit, again,
19 based on the Dallas area median income. In 2003, the
20 Dallas area median income is \$65,000. So when you
21 calculate 40 percent on top of that, you have a move in
22 limit of 71,500. And for a household for two or more,
23 it's 91,000.

24 Important to say yet one more time. These are
25 the units that are not restricted. These are the units

1 that are not leased to low income, not any kind of a
2 definition of low income, but the definition of eligible
3 tenants. So it's that 80 percent of the units that are
4 basically the market rate units, have to fall within these
5 guidelines.

6 One of the things I asked staff to do last
7 night was to take a look for me at what the limits had
8 been for '02. And the limits were higher in '02 than they
9 actually are in '03, because the area median income of
10 Dallas has gone down.

11 In 2002, the area median income of Dallas was
12 \$66,500. In '03, it went down to \$65,000. So
13 consequently, the income limit for a one-person family was
14 73,150. This year, it's 71,500. So we're doing it
15 because the covenants in our bond documents say we must.

16 MR. CONINE: Move for approval.

17 MR. SALINAS: Second.

18 CHAIRMAN JONES: We have a motion that's been
19 made and seconded. Discussion?

20 (No response.)

21 CHAIRMAN JONES: Hearing none, I assume we're
22 ready to vote. All in favor of the motion, please say
23 aye.

24 (A chorus of ayes.)

25 CHAIRMAN JONES: All opposed, nay? Motion

1 carries. Item 6 of the agenda, Mr. Gonzalez.

2 MR. GONZALEZ: Yes. We will call on Mr.
3 Gaines. He's been here all day.

4 CHAIRMAN JONES: And aren't we proud of him?

5 MS. ANDERSON: We are today.

6 MR. GONZALEZ: Yes.

7 CHAIRMAN JONES: Yes.

8 MS. ANDERSON: And Mr. Dally. We're proud of a
9 lot of people today.

10 CHAIRMAN JONES: Good.

11 MR. GAINES: Mr. Chairman, members of the
12 board, that's a tough act to follow today. But I'll try
13 to be brief. I know it's been a long one. So -- the
14 first item on your agenda is approval of the Annual Audit
15 plan.

16 The Texas Internal Auditing Act requires that a
17 plan be developed on an annual basis based on risk
18 assessment procedures. And the plan you see in front of
19 you was reviewed by the committee earlier today, and
20 discussed. In the simplest of terms, all risk assessment
21 with all the changes and reorganization, many areas were
22 showing up as high-risk because our factors were things
23 such as changes in organization, changes in management,
24 new processes.

25 Because of that, we focused on inherent risk

1 being the highest-risk areas. Inherent risk is new cash.

2 So we focused on cash receipts. There is two projects
3 there on cash receipt, and cash disbursement's being the
4 draw processes.

5 With that, we'll be first focusing those
6 reviews on the areas most affected by the reorganization.

7 So the remaining areas listed are for the most part
8 ongoing activities the Internal Auditing Division has.

9 One of the unusual areas is our contribution to
10 the State Auditor's internal audit form for Quality
11 Control Assurance Reviews.

12 If you'll recall, we just had a review ourself
13 done on our internal audit function. The cost to the
14 department is that we now pay back by providing resources
15 to conduct another state agency's peer review. So we
16 budget time for that.

17 The remaining activities are ongoing activities
18 we deal on an annual basis. The committee -- I want to
19 make sure if this is the committee is recommending to the
20 full board or -- for approval, or if you actually approved
21 it, but --

22 MR. GONZALEZ: We need the board to approve it.

23 MR. CONINE: Make a motion, then, Mr. Chairman.

24 MR. GONZALEZ: So move.

25 MS. ANDERSON: Second.

1 CHAIRMAN JONES: Motion's been made and
2 seconded. Questions, comments, discussion?

3 (No response.)

4 CHAIRMAN JONES: Hearing none, I assume we're
5 ready to vote. All in favor of the motion, please say
6 aye.

7 (A chorus of ayes.)

8 CHAIRMAN JONES: All opposed, nay? Motion
9 carries.

10 MR. GAINES: The next series of items, under
11 Item 3 is a series of reports recently released by our
12 external auditors, Deloitte and Touche. This morning the
13 managing partner was here to present the results of those.
14 And he provided me some of his speaking points. So I
15 will just touch on some of the highlights there.

16 The external auditors have reached these
17 unqualified opinions, which means that the financial
18 statements present fairly in all material respects, on the
19 department's comprehensive annual financial report, and on
20 separate bond program schedules, as well as on the
21 Computation of Unencumbered Fund Balances on August 31,
22 which is a required computation, to determine available
23 funds for transfer to the Housing Trust Fund.

24 Those are all unqualified opinions. There is a
25 significant change in accounting principles this year that

1 relates to what's called GASB statement 34. This is --
2 the name of the statement is Basic Financial Statements.
3 And management is -- excuse me.

4 It's a change in the basic financial statements
5 of government enterprises. They must admit the changes
6 relate to full-accrual accounting. This would include
7 things such as including depreciation of fixed assets on
8 your balance sheet. It would include your liability,
9 classification as long-term and current. These things
10 used to be off of the balance sheet.

11 It's much more representative of what the
12 private sector reports. And Mr. Scott this morning was
13 very complimentary of our accounting staff of putting this
14 together successfully. He emphasized that the statements
15 were prepared by the staff, and acknowledged the huge
16 challenge in doing that, and was real complimentary of the
17 staff in that respect.

18 He emphasized that the auditors received full
19 cooperation from management. There was no significant
20 audit adjustments proposed during the audit. It was
21 narrow material, unadjusted misstatements -- no
22 material -- unadjustable statements.

23 Yes. No material -- unadjusted. Okay. That's
24 kind of a double negative there, but that's good.

25 MR. GONZALEZ: Did you get that, Penny?

1 MR. GAINES: And they did emphasize that
2 they're independent of the department, even though the
3 department pays their fee. They didn't emphasize that
4 part. There were several --

5 MS. CARRINGTON: David, do you like your job?
6 Do you remember who you work for? You work for the board.

7 MR. GAINES: An inside joke there, yes.

8 CHAIRMAN JONES: We're talking about two
9 different things, aren't we, David?

10 MR. CONINE: No.

11 CHAIRMAN JONES: Actually, I have a hard time
12 distinguishing it sometimes. There were several
13 management letter comments. Actually, there was two for
14 the current period. One is that the department did allow
15 a lapse in coverage in the -- a breakage in the officers'
16 insurance. There was considerable discussion regarding
17 that this morning.

18 CHAIRMAN JONES: Really?

19 MR. GAINES: I beg your pardon?

20 CHAIRMAN JONES: I said, Really?

21 MR. GAINES: Yes, sir. A considerable
22 discussion. The bottom line, matter of fact, was that you
23 have a much better rate for the next time around. Ms.
24 Anderson was real concerned that we got that policy back
25 in effect. I appreciate that. And then there was a

1 comment regarding loan loss reserves and the need to more
2 periodically evaluate those lost reserves.

3 But that showed prior audit issues and all
4 prior audit issues and been resolved, or substantially
5 resolved. They were all resolved.

6 He did mention the one regarding Integrated
7 Information Systems, and the department's enterprise-wide
8 integrated financial systems, how there is value to have
9 greater integration there. And he did acknowledge that
10 management has implemented additional programs, and other
11 ventures to begin resolving this issue. That concludes
12 the report of the external auditors.

13 The final -- well, not the final, the next
14 agenda item relates to the internal audit report on the
15 Low Income Housing Tax Credit Inspection Fee project.
16 This is the project that we referred to you frequently
17 since last September. And if you will all just focus my
18 discussion on the executive summary, it points out that a
19 subsidiary ledger that identifies the payments to
20 inspectors and reimbursements from project owners --

21 CHAIRMAN JONES: I hate to interrupt. But I'm
22 getting constant notes from my good friend Delores, who
23 says we're about to lose a quorum.

24 MR. GAINES: Okay.

25 CHAIRMAN JONES: She's rather adamant that I

1 needed --

2 MS. GRONECK: I have to leave, and those two
3 have to be on a plane at 4:00.

4 CHAIRMAN JONES: Then I need to do something.
5 So having done that, where does this leave us?

6 MR. GAINES: Allow me to do it for you.

7 CHAIRMAN JONES: Okay.

8 MR. SALINAS: Do you lose a quorum if I --

9 CHAIRMAN JONES: No, not you.

10 MS. ANDERSON: No, not until Kent leaves.

11 CHAIRMAN JONES: Not if you leave. You can
12 leave, because I think -- I think you were the first to
13 make your request. No? Okay. Maybe you weren't. I just
14 got in trouble.

15 MR. GAINES: I believe I can expedite this, if
16 that's okay --

17 CHAIRMAN JONES: Thank you. We would
18 appreciate it, knowing it.

19 MR. GAINES: That report was accepted by the
20 committee. We discussed its status with prior internal
21 and external audit issues. And I'll be glad to elaborate
22 if you'd care to come with me.

23 CHAIRMAN JONES: Thank you so much. I
24 appreciate it.

25 MS. ANDERSON: The CPA was very complimentary

1 of Bill. And I can't let that pass without -- this is the
2 first time we've done it under -- done this reporting
3 under this new GASB thing, and how Bill had everything
4 prepared. It was just -- it was music to our ears to hear
5 how positive it was.

6 CHAIRMAN JONES: Great. And we got the
7 insurance policy backing.

8 MS. ANDERSON: Bill and his team.

9 MR. GAINES: In the process.

10 CHAIRMAN JONES: In the process.

11 MS. CARRINGTON: And I want to comment, as I
12 was talking to the CPA, that he tells me that other state
13 housing finance agencies -- some of them, are not going to
14 be able to present their financial statements in
15 accordance with GASB 34 this year. And so this is a huge
16 accomplishment for this agency, for Bill's area, and for
17 David Cervantes. And I hope the board does recognize
18 that.

19 CHAIRMAN JONES: Thank you.

20 MR. CONINE: Duly noted.

21 CHAIRMAN JONES: Duly noted. And we are going
22 to get that insurance policy in place, aren't we?

23 MR. GAINES: That's what I understand.

24 CHAIRMAN JONES: All right. Great.

25 MS. CARRINGTON: Yes, we are.

1 CHAIRMAN JONES: Anything else from the Audit
2 Committee? Does that take care of -- okay, we'll move to
3 Item 7.

4 Ms. Carrington?

5 MS. CARRINGTON: Mr. Chair, we can just pass
6 right through that if the committee is --

7 CHAIRMAN JONES: How about Item 8?

8 MR. SALINAS: Mr. Chairman, can I be excused?

9 CHAIRMAN JONES: Yes, you may be excused,
10 Mayor. No kidding. Item 8?

11 MS. CARRINGTON: Item 8 is the discussion this
12 morning of how the board and staff will consider comments
13 of opposition as we move forward in developing policies
14 and -- uh-oh. Community Affairs. I'm sorry.

15 CHAIRMAN JONES: I'm sorry. Okay.

16 MS. CARRINGTON: I'm sorry. Eddie?

17 MR. FARRIS: Would you like to take it out of
18 order?

19 MS. CARRINGTON: Why don't we? Yes. Number 9.
20 Number 9 really follows our discussion this morning.

21 CHAIRMAN JONES: Okay.

22 MS. CARRINGTON: It's something the department
23 is very concerned about, and we're working to get our arms
24 around something that we can bring to the board that will
25 be a policy that will help us address how we incorporate

1 public opposition in our decision-making.

2 CHAIRMAN JONES: Do we look at that at the next
3 board meeting, then?

4 MS. CARRINGTON: We can.

5 CHAIRMAN JONES: Thank you.

6 MS. CARRINGTON: We will.

7 CHAIRMAN JONES: Thank you.

8 MS. CARRINGTON: Eddie, you've got two minutes.
9 Two minutes, max.

10 MS. ANDERSON: That's 40 seconds a bullet.

11 MR. FARRIS: Well, seeing as how I have two
12 minutes, my name is Eddie Farris. I'm the division
13 director for the Community Affairs Division.

14 As you know, effective March 1, we were
15 reorganized somewhat, and Section 8 became part of the
16 Community Affairs Division. We welcome them back.
17 They've been part of Community Affairs Division at least
18 three times before. And we serve the same population, and
19 we are happy to have them. And we believe that together
20 we can improve the services that we provide to low income
21 people.

22 I had intended to do a PowerPoint presentation,
23 but you have a copy of this in there. It's built upon the
24 presentation that I'll make on the 18th, where we talk
25 about our reorganization. In there, you'll find

1 information about the performance of all the programs in
2 the Community Affairs Division.

3 You know, thanks to the nonprofit organizations
4 that we work with, we are either meeting or ahead of the
5 goal.

6 I also want to mention that in Section 8, they
7 are 95 percent leased, and I believe I've -- I'm -- I have
8 heard that this is the first time that they have that high
9 a percentage of lease-up, an acceptable percentage. And
10 we'll continue to work hard to do that, to keep that
11 percentage up and increase that.

12 My intention each time I provide this update
13 was to highlight a different program within the Community
14 Affairs Division. And this time I wanted to talk about
15 the system benefit fund. And I'll try to go through there
16 very quickly.

17 The system -- you do have a summary of that
18 program in your board book. The system benefit fund was
19 created in 1999 by Senate Bill 7, which also created a
20 deregulated retail electric market.

21 There -- these investor-owned utilities that
22 are participating in deregulated electric market provide
23 funding for the system benefit fund, to PUC, Public
24 Utility Commission.

25 They, in turn, fund each of the different

1 programs under the system benefit fund. The energy
2 efficiency program that we administer is just one of
3 those.

4 This year we're administering ten -- over \$10
5 million under that fund. Last year we had a seven-month
6 program. We administered over \$7 million of that. All of
7 that might -- we -- the nonprofit agencies that we work
8 with are -- managed to use that money efficiently.

9 We spent all of that money, except for \$43,000,
10 which is currently encumbered, and will be liquidated by
11 the end of April. So that was a -- I want to point out
12 the good job that those nonprofit agencies do.

13 The purpose of these funds is to work in tandem
14 with our other weatherization programs, whereby we provide
15 energy -- we do energy efficiency measures to homes that
16 have proven to be weatherizable. And one of the things
17 that contractors have to do is determine what factors can
18 be addressed to increase the energy efficiency.

19 They have -- there is an electronic audit
20 system that we use so that we ensure that that -- that
21 there is at least \$1 savings for each \$1 invested -- \$1
22 energy savings for each \$1 invested.

23 One of the ultimate -- besides the fact that
24 the assistance that we provide through this fund reduces
25 the energy cost of low -- very low income persons, the

1 utility companies also benefit, because they -- they're --
2 their customers who aren't paying -- the number of
3 customers who can't pay their bill is reduced. So their
4 losses are reduced.

5 One of the things that we have struggled with
6 with this program is having money for administration. And
7 we administered this program for 2002 and 2003 with some
8 unexpended investor-owned utility funds which came from a
9 different program, but are used for the same type of
10 weatherization activities.

11 We hope that the Legislature will amend the
12 language in this bill so that we are allowed to use some
13 of these funds. Or our subgrantees will be allowed to use
14 some of these funds to administer this program.

15 As I say, we'll be administering -- we'll be
16 spending ten million -- \$10.7 million this next year.
17 There are five investor-owned utility companies that
18 contribute to the System Benefit Fund.

19 There also remains four investor-owned
20 utilities that have not opted into deregulation. So we
21 still have contracts directly with them. And we have
22 another coop that also provides -- participates in the
23 I.O.U. program.

24 But if you would like additional information
25 about the System Benefit Fund, feel free to call me.

1 CHAIRMAN JONES: Thank you.

2 MR. FARISS: Thank you.

3 CHAIRMAN JONES: I appreciate it.

4 MS. CARRINGTON: I'd like to make a comment,
5 that as we've been over at the Capitol for the last couple
6 of months, we've had a number of comments and a number of
7 questions about our administration, not only of the System
8 Benefit Fund, and how is it working and who is it serving.

9 But also a real interest, I think, in our poverty
10 programs, in the programs that are administered out of
11 Eddie's area.

12 So as we go to the Capitol we certainly are
13 getting questions on not only the housing programs of this
14 agency, but also the community affairs side also.

15 CHAIRMAN JONES: Thank you, ma'am. I think the
16 next item on our agenda is the Executive Director's
17 report.

18 Ms. Carrington?

19 MS. CARRINGTON: One item -- if anybody is
20 going to be in town on Tuesday of next week over at the
21 Thompson Center, we're having our big community meeting
22 for anybody that wants to come. We send out thousands of
23 these to explain how the organization works after reorg.

24 And the rest of the items, Mr. Chair, I can
25 pass on.

1 CHAIRMAN JONES: Thank you so much. We had
2 three speakers that were willing to speak on the Executive
3 Committee agenda. And if you all would come forward.
4 They're all speaking in favor of a proposed settlement.
5 Mr. O'Donnell, Ms. Jackson, and Ms. Lane.

6 Excuse me. I'm sorry. Golly.

7 MR. CONINE: Wake you up?

8 CHAIRMAN JONES: Yes.

9 MS. JACKSON: Good afternoon.

10 CHAIRMAN JONES: Yes, ma'am.

11 MS. JACKSON: My name is Tony Jackson. I'm
12 here representing -- I'm from Coats, Rose representing
13 Century Pacific and the Michaels Group. This is your
14 agenda item on this Century Pacific versus TDHCA
15 litigation.

16 However, I'm not here so much to talk about the
17 litigation, as opposed to talking about a proposed
18 settlement that came to us from the staff a few months
19 ago, and to reiterate that we're very interested in
20 settling this litigation.

21 We have -- we understand that your general
22 counsel is going to, in fact, update you during executive
23 session. However, we wanted to come before you to let you
24 know that we are very interested. The Michaels Group has
25 a representative here who is going to come before you.

1 The CFO is here in town. And we have been in
2 communication with your staff.

3 I more particularly wanted to express to you
4 that I have been in discussions with HUD. And HUD is very
5 interested in also seeing a resolution to this matter.
6 There has been some questions regarding the subsidy.

7 And of course, the subsidy and just the overall
8 units are in jeopardy if this settlement is not -- if we
9 do not come about a settlement or this is not resolved
10 very soon. And we are very concerned about the
11 affordable housing of these 800 units being maintained and
12 preserved. So again, we wanted -- HUD asked me to relate
13 to you that they are very interested in making these
14 properties work.

15 They have tentatively accepted the Michaels
16 Group. However, they are waiting for a decision by TDHCA
17 to see what your recommendation is going to be. We have
18 again, we have moved based on the -- what had been
19 proposed to us by the staff some months ago, and have been
20 in communication with general counsel.

21 And we recognize that they are not prepared to
22 make a recommendation at this point, but we do want to
23 reiterate to you that we are very interested in resolving
24 this matter, and wanted to speak to you regarding that at
25 this point.

1 CHAIRMAN JONES: Thank you.

2 MR. CONINE: Can you tell me who you represent
3 one more time?

4 MS. JACKSON: Yes. I'm sorry. The law firm of
5 Coats, Rose. I represent both Century Pacific and the
6 Michaels Group in this Matter. The Michaels Group is the
7 entity that this -- the properties are going to be
8 transferred to.

9 MR. CONINE: Okay. Thank you.

10 MS. JACKSON: Okay.

11 CHAIRMAN JONES: Mr. O'Donnell?

12 MR. O'DONNELL: Good afternoon, Chairman Jones
13 and the rest of the board. I appreciate the opportunity
14 to speak before you today. And I appreciate your
15 perseverance. It's been a very long day.

16 I'd like to quickly address basically four
17 points. Who we are -- who the Michaels Group is. The
18 fact that Century Pacific is willing to step away from the
19 properties. The fact that the focus should be on who the
20 800 families' lives in Texas, and finally, that this very
21 rarely -- I think that it's a win/win situation for
22 everyone involved.

23 And the Michaels Group is a company that's been
24 in business for over 30 years. We've developed over
25 25,000 houses -- affordable housing units across the

1 country. All's we do is affordable housing. That's all
2 we do. We have a development staff. We have a nationally
3 acclaimed management company, as well as social service
4 programs.

5 We are in front of -- we believe our industry,
6 and how we handle social service programs. We have a
7 nationally acclaimed work-to-welfare programs, a
8 neighborhood network, which includes computer learning
9 centers and the programs. And we want to bring all that
10 to these four communities.

11 And we have a very strong balance sheet in our
12 organization, which gives us an opportunity to attract
13 more private investors and lenders, and to pay top dollars
14 with your tax credits that we're speaking of.

15 And in our portfolio, we have over 40 tax
16 credit properties throughout the country. And we consider
17 our compliance program record second to none throughout
18 the country.

19 And Ms. Jackson handed out -- it's some
20 background on where we've been and what we've done. And
21 one thing that I just -- to do before I get on to the next
22 step, is one thing we're very proud of is our tenant
23 policy and our social service programs.

24 And we have a tenant education foundation like
25 that. The last year it paid 86 different scholarships to

1 our residents, and we promote that.

2 And the second piece of this, that Century
3 Pacific is willing to step away entirely. And they're
4 certifying that they have no further ownership, and no
5 further involvement in these properties whatsoever.

6 And the third point is the focus on the
7 improving the lives of 800 Texas families. It is our
8 mutual goal to promote and preserve affordable housing.
9 And that's what we're asking you to do.

10 In doing this, in our financial structure, what
11 we're bringing to the table \$50 million of financing for
12 these four communities. And about half of that, over \$20
13 million is for the direct construction and improvement of
14 the residents of these four communities.

15 Not only in our eyes do we improve these
16 properties, but we help revitalize the surrounding
17 neighborhoods in these efforts.

18 Finally, we think this is a win/win situation.

19 The department has an owner they can approve. The
20 department has a partner in which they are proud of and we
21 can go forward and meet our goals together. The big
22 winner in all this is the residents, and being a
23 beneficiary of over \$20 million in improvements.

24 The bottom line is that we're making a better
25 life for these families, and a better environment to raise

1 the family. And you know, that should be our focus.

2 And our organization is more than willing, at
3 the board's discretion, to come back at any point in time
4 to make a more formal presentation with our management and
5 social service programs and our development staff at your
6 choosing. And I ask and encourage you, if you guys have
7 any questions.

8 MR. CONINE: Where's home?

9 MR. O'DONNELL: -- New Jersey.

10 MR. CONINE: Okay. Thank you.

11 CHAIRMAN JONES: Julie Rose? Julie Lane.

12 Excuse me. I'm sorry. I apologize. You've got to read
13 it too quickly.

14 MS. LANE: Good afternoon.

15 CHAIRMAN JONES: Good afternoon.

16 MS. LANE: Thank you. I'll be as brief as
17 possible. My name is Julie Lane. And I'm with the law
18 firm of Cantey and Hanger, Roan and Autrey. And I am
19 involved in the litigation on behalf of Century Pacific.
20 And as you're probably well aware, what I've done is
21 passed out our brief that we filed in the Austin Court of
22 Appeals.

23 In case you're interested, in case you want
24 more information, that's what I'm here for, to provide.
25 I wanted to give a brief update on the litigation and the

1 status of it so you would have all the information you
2 need when you go into discussions about settlement.

3 As you probably know, we went to district court
4 and got an injunction against the department. And the
5 district court instructed the department to follow its
6 QAP. Of course, the department has appealed this, and
7 yesterday morning we went to the Austin Court of Appeals
8 and had our oral argument. And I'm sure your general
9 counsel will update you on that.

10 The -- at oral argument, the Court was very
11 interested in these issues. It was a lively discussion.
12 There were questions fired, you know, at both sides. One
13 thing the Court did express was a concern at the
14 department's position that they are not subject to review
15 by the district court or the Court of Appeals.

16 The Court did also make some concerns about
17 problems the department has made in the past. And I don't
18 have a crystal ball. I don't know what the Court of
19 Appeals is going to do. But what I do know --

20 CHAIRMAN JONES: What concerns did they have
21 about past problems?

22 MS. LANE: The comment that was raised was
23 about the newspaper article that was in the paper in the
24 Metro Section Wednesday morning, was the comment.

25 CHAIRMAN JONES: And what did it deal with?

1 MS. CARRINGTON: Reducing the sentence.

2 CHAIRMAN JONES: Okay. Thank you.

3 MS. LANE: Like I said, I don't know what the
4 Court of Appeals is going to do. But what I do know as a
5 formal briefing attorney on that court is that we're not
6 going to have a quick decision out of that court. They
7 understand the importance of the issues involved.

8 What I told my clients is that I would expect
9 an opinion in that case to come down any time between June
10 and August. And so what that does for us is it gives us
11 a -- you know, a window of opportunity, if there's some
12 resolution we can reach, to bring about a settlement.

13 We've heard from the Michaels Group. They are
14 very interested. Century Pacific has agreed to step down.

15 But my concern is, if we're going to reach a resolution,
16 that we do it relatively quickly, while we have the
17 chance.

18 If I'm correct in my prediction, and we don't
19 get an opinion out of that Court until June, the State of
20 Texas and 800 families are at risk of losing the 16
21 million in federal tax allocations.

22 If you have any questions of me whatsoever, let
23 me know what I can do, or if my client -- we can provide
24 you as much information as you need.

25 CHAIRMAN JONES: Thank you.

1 MR. CONINE: Is there -- and you obviously
2 realize that we're all stretching to catch flights here.
3 Is there a time crunch on this where we need to make a
4 decision today, in your opinion?

5 MS. LANE: No, my opinion, like I said, the
6 Court will take some time to rule. They've got to issue
7 an opinion. The fastest I've seen an opinion come out of
8 that court, frankly, has been about a month. I think --
9 my time frame was I thought we might see something in
10 three months. But I could be wrong. But nothing's going
11 to happen today, Mr. Conine.

12 MR. CONINE: No, I guess -- my -- this is going
13 to be something that is going to take me 30 or 40 minutes
14 to understand. I'm going to miss my flight when that
15 happens.

16 MS. JACKSON: Right. And actually, if I could
17 respond a little more specifically to that.

18 MR. CONINE: Sure.

19 MS. JACKSON: In regards to HUD, I will say we
20 will be waiting for after the executive session. We do
21 need to -- HUD is very interested in at least having some
22 idea of direction as to what the department is going
23 towards, because again, they are very interested in moving
24 forward with completing their transfer. But they
25 understand that they cannot do that until they know

1 whether or not TDHCA has been willing to accept the
2 Michaels Group to, in fact, make that transfer happen.

3 MR. CONINE: Mr. Chairman, I mean, there is two
4 problems here. One, this is going to take some time,
5 obviously. And secondly, we want to have a full
6 compliment of the board here. And this has been a -- you
7 know, a thing that's been tracking for quite some time.

8 I've got a feeling the other two board members
9 might have an interest in the subject. So -- I mean, I'm
10 willing to miss a flight if we have to. It sounds like
11 we've got a lot of folks flying in and all that kind of
12 stuff. But --

13 MR. O'DONNELL: I would like, really -- one
14 more comment. Excuse me.

15 CHAIRMAN JONES: Sure.

16 MR. O'DONNELL: Just the -- it's the time frame
17 is -- you know, the case before us, or the testimony
18 before us for -- they ran out of time to get the tax
19 credits. These are 2002 tax credits that run out the end
20 of next year. A lot of these companies' projects are
21 major rehabilitation programs, putting in over \$20,000 a
22 unit. And we have to move families back and forth.

23 So even about 18 months or so you can be
24 reasonably assured that we can get all that accomplished.
25 That's a time factor that we would face.

1 MS. JACKSON: But the biggest time factor,
2 again, in terms of HUD -- because there has been a
3 recommendation to withhold the subsidy on Kings Row, HUD
4 does not want to move forward with that. They don't want
5 to lose the subsidy on these properties, and so --

6 MR. CONINE: What subsidy are you referring to?
7 Refresh my memory.

8 MS. JACKSON: Section 8.

9 MR. CONINE: Section 8. Okay. All right.

10 MS. JACKSON: So if nothing else, we would like
11 to at least let HUD know that TDHCA is still in
12 discussions with us.

13 CHAIRMAN JONES: What's the board's pleasure.

14 MR. CONINE: I don't know that I've got a good
15 answer there.

16 CHAIRMAN JONES: Okay. I presume we need to go
17 into executive session, unless someone has a better plan.
18 That being the case, we will now -- thank you for your
19 public comment. We appreciate it. Thank you so much for
20 being here. And we will close all public comment at this
21 time and go into executive session.

22 On this day, March 13, 2003, at a regular board
23 meeting of the Texas Department of Housing and Community
24 Affairs held in Austin, Texas, the board of directors
25 adjourned into a closed executive session as evidenced by

1 the following. The board of directors began its executive
2 session today, March 13, 2003, at 3:52 p.m.

3 The subject matter of this executive session is
4 as follows, the litigation, anticipated or threatened,
5 Century Pacific Company, Consultation with Attorney,
6 pursuant to Section 551.071(2), Government Code,
7 Multifamily Housing Revenue Bonds, Young versus Martinez,
8 Heatherwilde Estate Apartments, Bond and Tax Credit
9 Development Approval, Appeal by -- that one will not be
10 considered. Request for relief by Kingfisher Creek
11 Apartments, Personnel matters and if permitted by law,
12 discussion of anything I have listed on the board meeting
13 of even date. At this point in time, we'll go in
14 executive session.

15 (Whereupon, a short recess was taken.)

16 CHAIRMAN JONES: The Board of Directors has
17 completed its executive session of the Texas Department of
18 Housing and Community Affairs on March 13, 2003 at 3:15
19 p.m. The subject matter of the executive session was as
20 follows:

21 Litigation and Anticipated Litigation, Century
22 Pacific, action taken, none.

23 Excuse me. Consultation with attorney pursuant
24 to Section 551.071(2), Texas Government Code concerning
25 501(c)(3) Multifamily Housing Mortgage Revenue Bonds,

1 Williams Run Apartments, action taken, none.

2 Young versus Martinez, action taken, none.

3 Heatherwilde Estate Apartments, action taken, none. Bond
4 and tax Development Approval, action taken, none.

5 Appeal by Enclave was not considered at all.

6 Request for relief by King Fisher Creek Apartments, action
7 taken, none. Personnel matters, action taken, none. And
8 discussion of anything on the board meeting agenda, action
9 taken none.

10 I hereby certify that this agenda of executive
11 session of the Texas Department of Housing and Community
12 Affairs was properly authorized pursuant to Section
13 551.103 of the Texas Government Code, posted in the
14 Secretary of State's Office seven days prior to meeting
15 pursuant to Section 551.044 of the Texas Government Code.
16 That all members of the Board of Directors were present,
17 with the exception of Shadrick Bogany and Roberto Salinas,
18 and that is a true and correct record of proceedings
19 pursuant to the Texas Open Meetings Act, Chapter 551,
20 Texas Government Code, as amended. Signed by myself,
21 Michael A. Jones as chair.

22 With that, I would entertain a motion to
23 adjourn.

24 MR. GONZALEZ: So move.

25 MR. CONINE: Second.

1 CHAIRMAN JONES: The motion to adjourn has been
2 made and seconded. I think it was by Mr. Conine. He was
3 moving his lips. All in favor of the motion, say aye.

4 (A chorus of ayes.)

5 CHAIRMAN JONES: All opposed, nay. The motion
6 carries. We are adjourned. Thank you.

7 (Whereupon, at 3:20 p.m., the meeting was
8 concluded.)

C E R T I F I C A T E

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MEETING OF: Texas Department of Housing and Community
Affairs Board Meeting

LOCATION: Austin, Texas

DATE: March 13, 2003

I do hereby certify that the foregoing pages,
numbers 1 through 147, 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.

03/27/03

(Transcriber) (Date)

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