

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

8:00 a.m.
Friday,
November 14, 2003

State Capitol Extension Auditorium
1400 N. Congress
Austin, Texas

COMMITTEE MEMBERS:

C. KENT CONINE, Vice Chairman
SHADRICK BOGANY
NORBERTO SALINAS
VIDAL GONZALEZ
PATRICK R. GORDON

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER, General Counsel
BROOKE BOSTON, Director of Multifamily Finance
Production
TOM GOURIS, Director of Real Estate Analysis
ERIC PIKE, Director of Single Family Production

ALSO PRESENT:

CINDY EVANS, Member, Public Input Work Group
JUDITH McLAUGHLIN, Member, Public Input Work
Group
BOBBY BOWLING, President, Texas Association of
Builders
CYNTHIA BAST
MIKE LANGFORD, President, Texas Affiliation of
Affordable Housing Providers
and Member, Public Input Work
Group
BARRY PALMER
BARRY KAHN

ON THE RECORD REPORTING
(512) 450-0342

BEAU ROTHSCHILD, Committee Clerk, House
Committee on Urban Affairs

GRANGER MacDONALD

BILL FISHER

JOHN GARVIN, Representative, Texas Affiliation
of Affordable Housing
Providers

DIANA McIVER, Vice President, Texas Affiliation
of Affordable Housing
Providers

JEREMY MAZUR, Legislative Director to State
Representative Bill Callegari

VAN DYKE JOHNSON, Executive Director, East
Austin Development Corporation

MARVIN C. GRIFFIN, President, East Austin
Economic Development
Corporation

REV. EARL HARRIS, Bethel Baptist Church,
Crockett, Texas

MARVIN McPHERSON, Chairman, Bethel Economic
Development Project

ROBERT GREER, President, Michaels Development
Corporation

KEN MITCHELL

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P R O C E E D I N G S

1
2 MR. CONINE: I now call the November board
3 meeting of the Texas Department of Housing and Community
4 Affairs. The first thing I want to do is call roll this
5 morning. Beth Anderson is absent. Kent Conine is here.
6 Shad Bogany?

7 MR. BOGANY: Here.

8 MR. CONINE: Vidal Gonzalez?

9 MR. GONZALEZ: Here.

10 MR. CONINE: Patrick Gordon, I understand, is
11 here, over there. Welcome, Pat.

12 And Norberto Salinas?

13 MR. SALINAS: Here.

14 MR. CONINE: We have four members present.
15 We've got a quorum.

16 We've got a huge agenda today, and what I'd
17 like to do is to make sure, again, that everybody has
18 ample time to say what they want to say in regards to
19 various items on the agenda, but we also have some time
20 constraints today. I, for one, need to leave right after
21 lunch time and go catch a plane. That's going to bust up
22 our quorum based on who we have present today.

23 So we need to try to move the agenda along as
24 best as possible. I know that's going to be difficult

1 with some of the items that are on there. I want to let
2 the board know that we'll probably break about 10:00 for a
3 little ten minute break so we can plan for that, and then
4 come right back and try to run through about 12:30 or
5 12:45, and see how quick we can get done. I want to make
6 sure everybody understands that.

7 Today, I want to thank Senator Todd Staples for
8 the use of the room. We appreciate him doing that. Also,
9 we have, as a special guest, Beau Rothschild, the House
10 Committee on Urban Affairs. Where's Beau?

11 VOICE: He's right over there.

12 MR. CONINE: Right there. Welcome. Thank you
13 for coming today. We appreciate you being here.

14 We have several public comments that I've
15 received. If you want to speak and haven't signed a
16 witness affirmation form, please do so. I've got several
17 here and I'll just kind of go through them right quick.
18 You have a choice of either speaking now or at the
19 particular agenda item.

20 Again, for the sake of time, we're going to
21 limit comments to three minutes if we could today. All
22 public comments limited to three minutes and we'll see how
23 that works.

24 The first name I have is Cindy Evans. Ms.

1 Evans?

2 MS. EVANS: I'll speak at the agenda item.

3 MR. CONINE: Speak at the agenda item. Thank
4 you. Judith McLaughlin.

5 MS. McLAUGHLIN: Same.

6 MR. CONINE: Same. Bobby Bowling?

7 MR. BOWLING: Same, Mr. Chairman.

8 MR. CONINE: Okay. Cynthia Bast?

9 MS. BAST: Same.

10 MR. CONINE: Okay. Michael Langford?

11 MR. LANGFORD: Same.

12 MR. CONINE: Okay. Barry Palmer?

13 MR. PALMER: I'll speak at the agenda item.

14 MR. CONINE: Okay. Barry Kahn?

15 MR. KAHN: Agenda item.

16 MR. CONINE: John Garvin?

17 MR. GARVIN: Agenda item.

18 MR. CONINE: Nobody cares. Beau Rothschild?

19 (A chorus of laughter.)

20 MR. CONINE: I'm sorry, Beau. I didn't mean
21 you.

22 MR. ROTHSCHILD: That's all right.

23 MR. CONINE: You're welcome to speak now to the
24 board if you'd like.

1 MR. ROTHSCHILD: All right. My name is Beau
2 Rothschild. I'm the Committee Clerk on Urban Affairs.
3 I'm speaking on behalf of Chairman Robert E. Talton.

4 "Dear board members, on October 7, 2003, I
5 forwarded to Executive Director Edwina Carrington, a
6 letter expressing my concerns as to the 2004 qualified
7 allocation plan your staff submitted for public response.

8 In that letter, I suggested that the proposed QAP
9 violated both the terms as well as the intent of Senate
10 Bill 264, the Sunset Legislation for the Texas Department
11 of the Housing and Community Affairs during its last
12 regular session.

13 "While I received a response from Ms.
14 Carrington, the specific concerns I raised in my letter
15 have never been addressed. I have reviewed the draft of
16 the QAP placed on your website Friday of last week. I'm
17 disappointed with the final draft and the appearance that
18 the public input and my concerns have been ignored.

19 "I raise my concern again, that I do not
20 believe the QAP follows the mandates in the Senate Bill
21 264.

22 "Thank you for your attention to this matter.

23 "Sincerely, Robert E. Talton, State
24 Representative."

1 MR. CONINE: Thank you.

2 MS. CARRINGTON: Beau, could we have a copy of
3 the letter, please?

4 MR. ROTHSCHILD: Yes, ma'am.

5 MS. CARRINGTON: Thank you.

6 MR. CONINE: Okay. He's done. Granger
7 MacDonald?

8 MR. MacDONALD: I'll speak at the agenda item.

9 MR. CONINE: Bill Fisher?

10 MR. FISHER: I'll speak now.

11 MR. CONINE: Or forever hold your peace.

12 MR. FISHER: All right.

13 MR. CONINE: This is what we're going to do
14 today.

15 MR. FISHER: Yes, sir. My name is Bill Fisher.
16 I'm with [indiscernible] and Realty. My comment is
17 probably just on one revision here, at the last minute, on
18 the one-mile rule, which I think many of us consider
19 punitive, but it was a legislative mandate from Senate
20 Bill 264.

21 The staff's change here, I think, is clearly
22 incorrect. It's inconsistent with the clear reading of
23 264, which says, "one-mile rule, three years, from the
24 opening of the application round." The latest revision

1 here for the tax-exempt bonds is from the filing of the
2 volume 1, and which will be, I think, cumbersome to follow
3 anyway.

4 We just ask that it go right back to the
5 wording of the 264, which is "the opening of the
6 application round," there were some questions -- this was
7 in response to request for clarification -- the only
8 clarification we're asking for is just tell us what the
9 opening date was of the tax-exempt bond round, whether it
10 was the lottery date or January 1 of that year.

11 MR. CONINE: Okay.

12 MR. FISHER: All right.

13 MR. CONINE: Any questions of Mr. Fisher?

14 (No response.)

15 MR. CONINE: Thank you, sir. Diana McIver?

16 MS. McIVER: I'll wait until the agenda item.

17 MR. CONINE: Okay. All right. Since I'm a
18 rookie at this job, if I missed somebody as we go through
19 the agenda items, please feel free to speak up. That way,
20 I can make sure and do this correctly.

21 One thing I also would like to do that I failed
22 to do here, shortly, Joe, was to introduce the newest
23 board member to the Texas Department of Housing and
24 Community Affairs. Pat Gordon is from El Paso, an

1 attorney out there with Gordon and Mott. He's a member of
2 the state bar of Texas, the American Bar Association, and
3 the American Institute of CPAs. He also serves on several
4 boards, a science museum and is a merit badge counselor
5 for the Boy Scouts of America. He's a published author
6 and speaker for numerous professional organizations and
7 universities.

8 Mr. Gordon received his Bachelor's degree in
9 finance from Texas A&M University. And then, he really
10 got smart and went on and got his Master's and Law degree,
11 with high honors, from Texas Tech University, where he was
12 associate editor for the Texas Tech Law Review.

13 Pat Gordon, we're welcome to have you. We're
14 glad you're here. He's kind of sitting on the sidelines
15 today. Again, based on the training statute in the last
16 legislative round, the felt comfortable on abstaining, but
17 he is here today, and let's give him a nice round of
18 applause.

19 (Applause.)

20 MR. CONINE: Okay. With that, we'll go to the
21 action items. Number 1 is the presentation, discussion,
22 and possible approval of the minutes of the board of the
23 meeting of October 9. Do I hear a motion?

24 MR. GONZALEZ: Second.

1 MR. BOGANY: Moved.

2 MR. CONINE: Is there a second?

3 MR. GONZALEZ: Second.

4 MR. CONINE: Any further discussion on the
5 minutes?

6 (No response.)

7 MR. CONINE: All of those in favor, signify by
8 saying aye.

9 (A chorus of ayes.)

10 MR. CONINE: Item 2, the 2004 formula, Ms.
11 Carrington?

12 MS. CARRINGTON: Thank you, Mr. Chairman. What
13 the board is asked to consider this morning is the final
14 approval of the 2004 regional allocation formula. The
15 board first looked at this on August 14 and you approved
16 the methodology for public comment at that time. From
17 August 29 to October 24, we took public comment on this
18 formula.

19 You all will remember that the legislature, in
20 1999, by Senate Bill 1112, directed the agency to use the
21 formula to allocate its HOME funds, its housing tax
22 credits, and Housing Trust Fund on a regional basis. We
23 have made some substantial changes to this formula as a
24 result of public comment. We basically had two things

1 that were going on during the public comment period.

2 It was pointed out to us that there was an
3 anomaly in the way the urban, ex-urban, and rural
4 populations had fallen out. Basically, what we discovered
5 was that if it didn't meet the definition of urban, then
6 all of the dollars fell into the rural category. That was
7 pointed out to us and, obviously, there are many areas
8 right outside of areas like Houston, Dallas, San Antonio,
9 that are not considered rural because they're right next
10 to the metro area, and really do meet the ex-urban
11 definition. Also, we were able to access some
12 HUD-specific data that allowed us to look data that was
13 related specifically to a place, which is a census
14 definition, as opposed to using the larger county.

15 So what we have for you today are five
16 attachments. Attachment A shows you the changes that were
17 made to the methodology. If you want to see what the
18 dollars are for each of the 13 state service regions,
19 that's in Attachment C. And then, Attachment E shows you
20 the methodology.

21 What the staff is asking for is approval of
22 this formula today and then it will be included in our
23 State Low Income Housing Plan.

24 MR. BOGANY: So moved.

1 MR. SALINAS: Second.

2 MR. CONINE: Motion to approve the 2004
3 regional allocation formula. Is there any discussion, any
4 comments, from any board members?

5 (No response.)

6 MR. CONINE: Seeing none, I'll call the
7 question. All those in favor, signify by saying aye.

8 (A chorus of ayes.)

9 MR. CONINE: All opposed?

10 (No response.)

11 MR. CONINE: Motion carries.

12 Ms. Carrington, I think the 2004 affordable
13 housing needs score is next.

14 MS. CARRINGTON: Yes, sir. This basically goes
15 along with the regional allocation formula. This
16 affordable housing needs score is not mandated in
17 legislation, but what it does is provide the Department a
18 comparison of each county and place, and helps us to
19 identify those areas around the state that have the
20 greatest need.

21 On August 4 also, the board approved the
22 methodology for the affordable housing needs score.
23 Again, we had the same kind of public comment period,
24 which was August 29 to October 24.

1 You'll all remember that you looked at this
2 again, October 9, and that there were modifications that
3 were made to the scores. We have made those modifications
4 and you have, again, three attachments in front of you.
5 Attachment A is the summary of changes that were made to
6 the methodology as a result of public comment. Attachment
7 B is a summary of the comments and department responses.
8 Attachment C is the actual affordable housing needs
9 scores, as proposed for final board approval.

10 So when you to that affordable housing needs
11 score, what you see is each place in Texas that has a
12 score, anywhere from 20 down to 0. Those scores are used
13 for those three programs that I mentioned to you, and the
14 higher the score, then the greater the need. It does
15 allow us to drive our dollars to those areas that have the
16 greatest need.

17 Staff is asking for approval of the affordable
18 housing needs score, which will also be included in the
19 State Low Income Housing Plan, which you all will approve
20 in December.

21 MR. BOGANY: So moved.

22 MR. SALINAS: Second.

23 MR. CONINE: A motion and a second, any
24 discussion?

1 (No response.)

2 MR. CONINE: Ms. Carrington, would you speak to
3 the public hearing side of this, and just give us a feel
4 for how that went, public comment, whether or not -- you
5 know, I know you had 13 of them, or whatever it was. Just
6 kind of give us a briefing on that, would you?

7 MS. CARRINGTON: We did have 13 public hearings
8 around the state and we took 12 or 13 items to those 13
9 public hearings. You all are being asked to approve seven
10 sets of rules today. All of those rules went, along with
11 the affordable housing needs scores, and we also took one
12 of the TSAHC rules. We had about 250 people total who
13 attended those 13 public hearings around the state. There
14 were some of our rules that didn't receive much public
15 comment at all. There were others that did indeed receive
16 public comment.

17 If there's any specific, Mr. Conine, either
18 about the regional allocation formula, the affordable
19 housing needs score, that came out of public comment, I
20 might ask Sarah Anderson to come and address that.

21 MR. CONINE: Nothing from me.

22 MS. CARRINGTON: Okay.

23 MR. CONINE: I just kind of wanted the board to
24 get a feel for actually the background on the public

1 comments side.

2 MS. CARRINGTON: Yes, indeed, and thank you for
3 reminding me of that.

4 MR. CONINE: Okay. There's a motion on the
5 floor to approve the 2004 affordable housing needs score.

6 MR. BOGANY: Yes, sir.

7 MR. CONINE: Yes, it's been moved and second.
8 Any other discussion?

9 (No response.)

10 MR. CONINE: Hearing none, all those in favor,
11 signify by saying aye.

12 (A chorus of ayes.)

13 MR. CONINE: All opposed?

14 (No response.)

15 MR. CONINE: So moved. Okay. Moving on to the
16 fun item of the day, the final housing tax credit
17 qualified action plan for 2004. We do have several
18 speakers, again, primarily focussed at the QAP. I want to
19 make sure I have them all lined up here. Okay. Ms. Cindy
20 Evans?

21 MS. EVANS: My name is Cindy Evans, from
22 McKinney, Texas, and I want to say that I am here today
23 only as a private citizen. I'm not representing the City
24 of McKinney or the McKinney HFC, only my own personal

1 views today on the QAP.

2 The first thing I wanted to address, as a
3 member of the public input working group, is signage. I
4 think this is the first year that you have done public
5 notification. Therefore, I think signage requirement is
6 even more important. The way the QAP is right now,
7 developers are given an out on signage, where they can
8 simply send a letter to the people that are near the
9 property, and I think that signage is the best, most
10 effective way to make sure that all of the people in the
11 community are aware of the incoming development.

12 The second thing is I would disagree very
13 strongly with the language that is included in here about
14 people who send in letters, being turned over to the
15 District Attorney if their comments are found to be
16 misleading. If a market analyst turns in a market study
17 that is not accurate, all he has to do is turn in an
18 accurate market study and he's welcomed back. The only
19 place in the entire QAP where people are threatened with
20 legal action is under the public input. I don't think
21 that's a productive way to invite the public into this
22 process.

23 There has also been added, under Section 50.11,
24 that notification will be given to advocacy organizations,

1 social service organizations, civil rights organizations,
2 tenant organizations, and others who may have an interest
3 in securing the development of affordable housing. We
4 went through significant discussion about exactly what
5 Senate Bill 264, who was supposed to be notified, and what
6 neighborhood organizations were supposed to be notified.

7 Basically, what was arrived at in the QAP is if
8 you are in a neighborhood group that's across the street,
9 you don't have to be notified. If you're in a
10 neighborhood group that's three blocks away, you don't
11 have to be notified, but if you're a civil rights group
12 that's on the other side of town, or if you're a tenants
13 advocacy group that's on the other side of town, in a
14 different community, you still have to be notified.

15 I think if we're going to broaden the scope,
16 and we're going to start including the civil rights
17 organizations, and the social service agencies, then we
18 need to also broaden the scope and include the Rotary
19 clubs, the Kiwanis clubs, the Chamber. I just think this
20 is really -- I think you're not playing both sides equal
21 if you're going to citywide include these groups, but not
22 include other neighborhood organizations who may be
23 involved in development issues.

24 The other thing that I wanted to talk about was

1 the scoring of the letters. I have no problem with the
2 scoring of the letters based on content. I believe that
3 that is something that the final discretion on these
4 approvals is with the board. If the board can look at
5 these and say, Okay, they got all of their scores because
6 of the letters, but we don't like the content of the
7 letters, this board has full discretion to approve or deny
8 any application, but to take it to the staff level, where
9 this is done in private, with different letters being
10 score, I think you're opening yourself up to a huge
11 problem. I don't think that was the intent of Senate Bill
12 264.

13 Then, what you get into are the advocacy groups
14 going to have to, if they send in a letter, are they going
15 to have to prove demand? Are the homeowners groups going
16 to have to prove demand? If you have an isolated
17 situation where you have, for example, a crime problem and
18 the tax credit property is in one specific area, is that
19 going to have to proven or is that going to be discounted
20 out of hand? There's not any criteria spelled out in the
21 QAP as to how staff is going to score these letters.

22 I just think you're inviting the public, you're
23 sending letters our to the public, and you're inviting
24 them into the process, and then you're telling them, your

1 letter's only worth this many points, your letter's only
2 worth this many points, and if there's anything in your
3 letter that we can't prove, or that we find misleading,
4 we're going to send you to the District Attorney. I just
5 find this threatening language and I hope that you guys
6 will make a little bit of change in it so that the public
7 actually feels welcome.

8 The one last thing is I very much appreciate
9 being included in this public input work group and I hope
10 that next year, on the 2005 QAP, that there will be more
11 members of the public, and that we will be included from
12 the very beginning of the process, because I think some of
13 these things could have been worked out if we were
14 involved all the way through the process, instead of
15 coming in kind of in the middle. Thank you very much.

16 MR. CONINE: Any questions for Ms. Evans?

17 MR. SALINAS: Is she talking about McKinney and
18 the problem we had last year, or because of the tax credit
19 project in McKinney?

20 MS. EVANS: No, sir. On the overall QAP, one
21 of the things that is in the QAP is that homeowners send
22 in a letter of opposition that is found to be
23 misrepresenting the facts, or basically if they send you a
24 letter about something that's not true, then it

1 specifically states in the QAP, they will be sent to the
2 District Attorney for prosecution. Well, that may or may
3 not be a good idea, it's the only place in the QAP. You
4 don't say that for developers misrepresenting themselves
5 on their applications. You don't say that about market
6 analysts misrepresenting things on market studies. I just
7 think that the language, as it's written in the QAP, is
8 hostile.

9 I would say, though, that I do very much agree
10 that letters that clearly violate the Fair Housing Act,
11 that are clearly discriminatory, that's a legal issue. I
12 absolutely think those letters should be disqualified. I
13 think that's different than deciding on other types of
14 content.

15 MR. CONINE: Thank you. Yes, Shad?

16 MR. BOGANY: I have just one quick question.
17 What would you suggest that we do when somebody from the
18 public writes a letter that's misleading? I'd like to
19 know what you think we should do when we get those types
20 of letters that are not about facts, it's about fiction.
21 What would you do when you got those types of letters?
22 What would you suggest we do?

23 MS. EVANS: I would say it would be exactly the
24 same if you get a letter in support or you get a letter in

1 opposition, as to whether or not -- I think you're
2 probably going to get letters in support that say, I think
3 this is great, even though there actually may not be a
4 market in that particular site. That should get the full
5 points.

6 You may get a letter that says, you know, I'm
7 opposed to this, because of "I just don't want it." I
8 don't know. "I just don't want it in my neighborhood."
9 The point of the public being involved in the process is
10 for the developer, the agency, and the homeowners to come
11 together and, hopefully, work out those issues in advance.

12 There are many, many developers in this room
13 who are doing that, who have homeowners that come forward
14 and say, I love this development. So I think if you get
15 down to the point where they're writing their letters, and
16 they're still in opposition, then there are still some
17 unresolved issues. Unless the Department can prove that
18 what they're saying isn't true, then I'm not sure how you
19 can discount those either.

20 MR. SALINAS: You're saying that when you're
21 opposed to a project in your city, or any city, wouldn't
22 the city have a control with the planning and zoning
23 public hearing? I understand that the city would send
24 notices to the neighbors, not to exceed three blocks, or

1 four blocks, notifying of the project that is coming to
2 your neighborhood.

3 You would have to go to your local city
4 council, mayor, and to your planning and zoning
5 commission, and I would think this is where it belongs,
6 where you all would take care of your own problem, whether
7 you want it in your neighborhood or not. I think we do
8 that, according to what the leaders in what your community
9 are going to be doing.

10 Of course, if they do not approve the zoning,
11 then the project is not good here, but you're saying that
12 after your city leaders, and planning and zoning, and
13 public hearings is over, and they approve it, and then
14 they send it over to us. And then, you're saying if we
15 get a letter, we should not send it to the District
16 Attorney.

17 I don't agree sending it to anybody. I think
18 it should be kept here, as a letter in our file, but not
19 to notify anybody about what we got. I think the board
20 members should have it. I don't agree that it should go
21 to the District Attorney's office.

22 I think we've been dealing with this problem
23 about where the projects go and I think the local county,
24 I mean, city and planning and zoning should decide that,

1 no? I mean, how would you react to that?

2 MS. EVANS: Well, Mr. Mayor, in a lot of
3 cities, and ours was one of them, we do have a significant
4 amount of multifamily land that is already zoned.
5 Personally had I been on the council, I would not have
6 gone out and zoned the city, you know, carte blanche, but
7 that is a different situation from concentration issues.

8 MR. SALINAS: Well, you go ahead, and get into
9 the community there, and elect somebody else, and go ahead
10 and rezone it, or do a concentration plan, and rezone the
11 area that you don't want it to have housing.

12 MS. EVANS: That is something that --

13 MR. SALINAS: We did that in our community.

14 MS. EVANS: -- in our community that we are
15 working on, but I want to make sure that I'm being clear
16 on the letters that I'm talking about. I'm not actually
17 referring to letters that would come in specifically just
18 to the board. The legislature, under Senate Bill 264, has
19 mandated that letters be scored, and be including in the
20 scoring process, and it's those letters that I'm referring
21 to.

22 Certainly, the board has complete discretion as
23 to how much weight you would give a letter when you get to
24 the end of the process. I'm talking about differentiating

1 between how many points a letter would get, under Senate
2 Bill 264, at the beginning of the process, as far as
3 scoring a letter, as in, We like this letter so it gets 3
4 points. We don't like this letter. It only gets 1.

5 My concern is that what's going to happen is
6 that some groups are going to say, I think this is a great
7 project because I like affordable housing. Great, you get
8 3 points. Somebody else is going to say, you know, We're
9 over-concentrated, or whatever other issues, but they
10 don't have specific proof, because they're homeowners and
11 they can't afford to pay for a market study, and they're
12 only going to get 1 point. That's my biggest concern and
13 that's not yet addressed in the QAP, as it is today.

14 MR. CONINE: Thank you, Ms. Evans.

15 MS. EVANS: Thank you.

16 MR. CONINE: Judith McLaughlin?

17 MS. McLAUGHLIN: Good morning.

18 MR. CONINE: Good morning.

19 MS. McLAUGHLIN: I have a prepared text. I'm
20 not as good of an extemporaneous speaker as Cindy, but
21 I'll to -- and we have, actually, we put our comments
22 independently. So we have a couple of areas of overlap,
23 that I'll go through.

24 I also am a member of the public input workshop

1 and honored to do so. Ironically, it was this day last
2 year that I was before you to talk about our community's
3 concerns for the tax credit development project that was
4 in the unincorporated area between Katy and Houston,
5 Texas. Since then, our area has seen four additional
6 projects being planned for our area or proposed, and we
7 also worked with Representative Callegari to help draft
8 some portions of 264. So in addition to the public input
9 workshop, I've been getting a very good education, as
10 Sarah Anderson would have me do.

11 Anyway, my objective today is to make some
12 specific comments on the QAP, but both Cindy and I had
13 submitted comments to the staff, and they are accurately
14 reflected in the board book. However, my goal today is to
15 put these comments in a little bit of a larger context,
16 and dealing specifically with the participation of the
17 public and the concept of input in the tax credit
18 allocation decision.

19 In my mind, the concept and the tools required
20 to engage the public in the allocation decision is really
21 in a state of development and refinement. It's very new.

22 In 264, the legislature has really thrust the public into
23 a process with really, to me, what we're supposed to do
24 with the public, what they're supposed to do, what role

1 they need to play, and it really doesn't provide any
2 really clear guidelines to address these issues, and there
3 are some issues that I think are subject to some
4 interpretation, as Cindy's also started to bring forward.

5 I think the QAP has to be considered in light
6 of this ambiguity. If the role of the community is to be
7 fully understood, as we try to develop this concept, then
8 what I would argue today, right now, is let's make some
9 decisions that we don't have unintended ramifications or
10 set irreversible precedents.

11 Cindy mentioned the issue of signage. Again,
12 the whole concept, in the public workshop, we talked
13 immensely about how we were going to notify neighborhood
14 organizations and we never came to a consensus on that. I
15 do feel that there's better ways of doing it. I think
16 that we can come to some of those ideas, and bring those
17 forward, and test some of those ideas in the months to
18 come. For now, I don't want us to step back from the 2003
19 QAP in terms of the signage requirements. I don't think
20 there should be an alternative that is proposed in the
21 2004 QAP.

22 As Kim Nelson, who is, I think, the head of
23 homeowners associations for Texas umbrella group, is that
24 you may not be able to find neighborhood organizations,

1 but with a sign, they will certainly find you. We do
2 intend to work on this issue. I've got a couple of ideas
3 that we've discussed and I think we can bring some
4 additional ideas forward. For now, though, it's not time
5 to change the signage requirements.

6 This is really an issue that we think is really
7 important because Mr. Callegari's language had to do with
8 the early public notification process. This is really
9 from my experience, and I know I can speak from a lot of
10 experience on this, that this is really critical to
11 mitigating neighborhood opposition, is the early
12 involvement of the neighborhoods. When the community is
13 engaged at the last stages of a project, there's just no
14 time to understand the issues, and the only thing you can
15 do is to mount an opposition. That's often based on
16 misinformation and unfounded fears.

17 The scoring of letters, Cindy went over, and I
18 just want to point out that the staff, in the board book,
19 says that they felt compelled to score the letters because
20 of the language in 264. The words "quantifiable community
21 participation," again, was another stumbling block that we
22 just had a real tough time with. So Cindy and I went to
23 meet with Representative Mercer's staff on it, tried to
24 get an understanding from his perspective, and in my view,

1 at that meeting, we really talked about the community
2 bringing the metrics to the equation, the metrics impact
3 to the conversation of costs versus benefits. That's what
4 I felt more quantifiable was. It really didn't mandate
5 that we score any letters.

6 So, again, if we want to avoid unintended
7 impacts on the community, and how this will be perceived,
8 I think it's going to be a bad idea and score letters at
9 this time, but let's go ahead and, again, develop this
10 concept.

11 Again, another reason being is why we know it
12 is subjective to administer this kind of concept, the real
13 message is what it conveys to the community on the
14 fairness of the process. The events of the last 12 months
15 have clearly eroded the public's confidence in TDHCA and
16 their confidence will not be restored by a subjective
17 assignment by TDHCA, to the communities' perceived, yet to
18 them, very real concerns. Again, we're at a state of
19 requirement and development. I think we just need to go
20 slowly on some of these things.

21 I know that you all remember the acrimony that
22 was the Katy project last year. From personal experience,
23 I can tell you that the approval process that I was
24 engaged in, and that the role that the TDHCA played in

1 support of that project, was a major source of the
2 community's opposition, but in my mind, and as I learn
3 more about affordable housing issues, I think the
4 Department failed its constituents, because it did not
5 address the community's founded or unfounded concerns, nor
6 did it attempt to place this development in the context of
7 the overall public good.

8 Unfortunately, the QAP that you're asked to
9 approve today doesn't address these underlying issues. In
10 fact, we're making no progress towards solving the things
11 that I came to you last year about. The community is now
12 a part of the approval process, but it's clear that it's a
13 forced and loveless marriage. Neighborhood organizations
14 are to be notified, but it's really not clear why. The
15 alternative that is proposed really would allow you not to
16 have to notify the community at all.

17 The community's opposition has weight now, but
18 it has to meet the test of legitimacy that only TDHCA can
19 assess. As Cindy mentioned then, if you make a
20 misstatement, as I did before the bond review board two
21 days before I met with you, in misinterpreting some of the
22 market study, then I could have been held and could have
23 been liable for what was said, which was the difference
24 between being Class B and Class A.

1 Anyway, we won't solve the problems of
2 neighborhood opposition to affordable housing unless there
3 is a healthy exchange of ideas between the Department and
4 the public about the need for affordable housing, and how
5 the locational decision is made, and until the Department
6 can educate the public about the greater good that is
7 served. I've said this in our public workshops until they
8 tired of it, but this is not the role of the development
9 community. It is the role of TDHCA. The Department
10 should lead the process of early notification of
11 organizations, the education of neighborhoods on the issue
12 of affordable housing, and most important, it should
13 ensure a balanced exchange between the developer and the
14 community during the application process.

15 In my mind, the QAP is the tool that affects
16 the behaviors and roles that all the stakeholders in this
17 process play, but it's going to take some time to really
18 be able to define those roles and get to those behaviors.

19 For right now, we just ask you that you go slowly in
20 approving anything that the public, that we do have some
21 problems with, because we'll work through these issues.
22 We'll get where we need to go, but let's not set some
23 precedents that will affect our ability to get there.

24 MR. CONINE: Thank you, Ms. McLaughlin. Any

1 questions from the board?

2 MR. SALINAS: What you're actually saying is
3 for us not to approve this?

4 MS. McLAUGHLIN: No, I just -- excuse me, don't
5 approve the scoring of letters. Let's go ahead and take
6 letters, but not score them. Let's put the 2003 signage
7 language back in and not allow the alternative for
8 notification in --

9 MR. SALINAS: What does the bill say now, the
10 new bill?

11 MS. McLAUGHLIN: On, I'm sorry?

12 MR. SALINAS: On letters, Ms. Carrington?

13 MS. McLAUGHLIN: Well, that's subject to
14 interpretation. This concept was called "quantifiable
15 community participation." Their reading of the language
16 indicated that that meant that there had to be a score
17 assigned to letters. That was the quantifiable part. In
18 my mind, and based upon my conversations with Mr. Mercer's
19 staff, then I don't feel that's really the appropriate
20 interpretation of the letters. I think that the
21 legislation does say that the participation is based upon
22 letters. It does not necessarily mean it's based upon
23 letters that are scored, based upon merit.

24 MR. SALINAS: I agree with you. Ms.

1 Carrington, how do you interpret that?

2 MS. CARRINGTON: I'd like to Chris Wittmayer,
3 our general counsel, to address that, Mayor.

4 MR. SALINAS: I agree with you. I don't think
5 letters should be scored.

6 MR. WITTMAYER: Senate Bill 264 requires us to
7 score, as one item, the quantifiable community
8 participation, based on letters which we receive from
9 neighborhood organizations whose boundaries include the
10 site of proposed development. We understood that language
11 "quantifiable community participation" to require the
12 Department to look at the content of the letter.

13 For instance, we might get a letter which
14 doesn't really give any reason for, let's say, the
15 opposition that they might have to the development. Or we
16 might get a letter that has a very good reason, which is
17 very weighty, which we should score at a higher level. We
18 might get a letter that has a sound negative reason, but
19 not a great weight. We felt it appropriate, based on the
20 language of the statute, and giving it a fair and
21 reasonable reading and implementation, was to weigh what
22 it was the letters had to say, whether or not they were no
23 reason, a weighty reason, or a reason of some weight but
24 lesser weight.

1 MR. CONINE: Mr. Bogany?

2 MR. BOGANY: I have a question. Chris, what
3 would constitute a letter being sent to the District
4 Attorney? Could you give me an example of what might?

5 You know, I've listened to the public comment
6 and what seems to concern me is that I'm accountable. The
7 developers are accountable. Everybody in the process is
8 accountable. The public wants to be a part of this game
9 and they don't want to be accountable. That's what I get
10 by listening to the comments that I've heard. If you want
11 to play, you've got to have some rules for yourself also.

12 I'd just like to know what constitutes a letter being
13 send to the District Attorney.

14 MR. WITTMAYER: Okay.

15 MR. BOGANY: Just give me an example of what a
16 letter would say that would make you want to send it to
17 the DA.

18 MR. WITTMAYER: If I could, first, let me read
19 the sentence in the proposed QAP that deals with this
20 issue.

21 MR. BOGANY: Okay.

22 MR. WITTMAYER: I think it's a very balanced
23 provision. What it says is, "To protect the integrity of
24 the Department's processes and decisions, evidence of

1 false statements, or misrepresentations, from applicant
2 representatives, neighborhood representatives, or other
3 persons will be considered for appropriate action,
4 including possible referral to local district and county
5 attorneys."

6 All we're saying is that all the parties that
7 have input to the Department, we need to maintain the
8 integrity of our processes, and if we find evidence of
9 false statements, or misrepresentations, we will consider
10 the evidence for appropriate action, which could
11 conceivably include referral to the local county or
12 district attorney.

13 I frankly think that it's highly unlikely that
14 we would ever find evidence that would cause that to
15 occur, but I think it's fair that we put in our public
16 documentation that that is an action, in an appropriate
17 set of circumstances, that we would at least consider.
18 Ultimately, it would be up to the local prosecutor to
19 decide if this was something that he felt had
20 ramifications that he or she felt it appropriate to
21 pursue.

22 MS. CARRINGTON: And Chris, may I comment that
23 it's all parties?

24 MR. WITTMAYER: All parties.

1 MS. CARRINGTON: It's all parties. So we
2 haven't singled out one party over another party.

3 MS. McLAUGHLIN: May I make a point though?

4 MR. CONINE: Sure.

5 MS. McLAUGHLIN: One of the items of the QAP
6 that we really thought was a great idea, and it's one of
7 the ones that we talked about in the work group, was a
8 neighborhood organization meeting. You know, the idea
9 here is that the communication and the education of the
10 public isn't at a level that they can really begin to
11 understand the trade-off between the public good that is
12 being conserved by affordable housing and their own local
13 impact.

14 We need to start and have that dialogue between
15 the TDHCA, who is the arbiter of public policy, and the
16 community. You take for granted, what is the need for
17 affordable housing. It is just not apparent to us when
18 we're out there. So we come to the work group and we say,
19 Here are some of the things that we would suggest for you
20 to deal with these issues of neighborhood opposition, and
21 we want to work through those processes. In fact, Brooke
22 had asked me just to identify what would a neighborhood
23 meeting look like and what would we talk about.

24 I just want to make sure that rather than

1 embracing something that appears to be punitive, we're
2 again still at an arm's length between the developer and
3 TDHCA and the community, but we start working and thinking
4 in terms of a more interactive process.

5 I believe, from my own experience, that these
6 issues can be made apparent. I've learned a lot about
7 what we have to do to talk to my friends, to tell them
8 really what the issues are and how they need to think
9 about this. It is a trade-off between whether we help the
10 people that require affordable housing, and put that in
11 the context of whether that impact is too severe for the
12 community, but that dialogue's not going to happen if we
13 just continue to keep ourselves at arm's length, and
14 score, and punitively assess letters. It just seems to me
15 that we're going the wrong way.

16 I'm just asking you, don't do anything right
17 now that appears to be punitive. Let's go ahead and set
18 some rules of the game.

19 I know that the developers are required to meet
20 certain timeliness for turning in pre-apps, for turning in
21 information, and if they don't do that, they're allowed to
22 go back and do that. We basically -- there are rules of
23 the game, but they have the discretion not to comply and
24 also not to be penalized for it. So let's go ahead and

1 offer that same discretion to the public until we can get
2 some firm grounding on how we can solve the problem.

3 That's why we came to the public workshop, to
4 help you solve the problem, and bring you our insights
5 from the neighborhood's perspective. I hope you value
6 that.

7 MR. CONINE: All right.

8 MR. SALINAS: I would think that the District
9 Attorney has better things to do than to look at these
10 letters and it's getting really --

11 MS. McLAUGHLIN: That whole message --

12 MR. SALINAS: -- where the public has a right
13 to send a letter, if somebody doesn't like that letter,
14 they can go ahead and take it on, by themselves, and file
15 some lawsuits against that person, that sort of thing. I
16 don't agree with it, but I would take the recommendation
17 of Ms. Carrington. I don't think that they would ever
18 send a letter to the District Attorney's office from this
19 agency.

20 MS. McLAUGHLIN: I know, but still it's
21 conveying a message to the public regarding what type of
22 input that they can have.

23 MR. SALINAS: Well, I just don't think that
24 that would be the case.

1 MS. McLAUGHLIN: Yes, but again, we need to
2 start at an early process to dialogue with the community
3 and educate --

4 MR. SALINAS: The whole process starts with
5 your community. If your community allows it, then you
6 don't like what they have done, then there's a process of
7 getting people elected and re-elected, or getting them out
8 of office. It all starts from the grass roots, down at
9 your community, and it seems to me that it's come down for
10 us to make those decisions now and it's not fair. We have
11 to take their recommendation and the community's
12 recommendation on where they want their housing and how
13 we're going to be able to deal with it.

14 MR. CONINE: Thank you

15 MR. SALINAS: I just think that that's the only
16 way to do it.

17 MR. CONINE: Good.

18 MS. McLAUGHLIN: Okay.

19 MR. CONINE: Thank you, Ms. McLaughlin. Bobby
20 Bowling, newly crowned president of the Texas Association
21 of Builders, welcome.

22 MR. BOWLING: Thank you, Mr. Chair. Good
23 morning, members of the board and Delores. Nobody ever
24 says hi to Delores.

1 MS. GRONECK: Hi.

2 MR. BOWLING: I wanted to -- first of all, I
3 agree with about 99.9 percent of what the staff prepared
4 for this year's QAP.

5 I especially wanted to thank the Department and
6 staff for the level of specificity that they've given to
7 the handling of setasides. I think I don't want to go
8 through, ever again, what I had to go through this year,
9 where my region had no money for general setaside. I
10 think it was vague before, and I think it's specific now,
11 and I think that's for the best, and I don't think what
12 happened last year was intentional by staff or the
13 Department. It was just one of those things that happened
14 and I'm glad to see it corrected. In my opinion, it is.

15 The only issue that I really wanted to
16 address -- and I forwarded some comments throughout the
17 public hearing process, went to the public hearings, and I
18 appreciate that my comments were given consideration -- I
19 think that I was in agreement with most of the changes
20 that came out last week, except for one still pending that
21 I want to talk about a little bit today.

22 As most of you all know, as Mr. Conine
23 mentioned, I'm the president of the Texas Association of
24 Builders. My family and my business is really specialized

1 in single family home building, for about 50 years. How I
2 got into this program was we had a large segment of people
3 that were coming through our doors, trying to buy homes,
4 that couldn't qualify for them. So, you know, I found out
5 about this program, learned about it, got active in it,
6 and started participating as a developer in tax credits.

7 The issue that I want to address specifically
8 is the issue of four bedroom units. In El Paso, and on
9 border regions generally, I just want to bring this data
10 forward without any judgment or without any preconceived
11 notion. Family sizes are just typically larger. It's
12 just a fact. It's not something that we can do anything
13 about. It's just the current set of circumstances that
14 exist.

15 There are a lot of people in El Paso that come
16 through, you know, a single mom with maybe four or five
17 children. While I could get them into a house that would
18 accommodate their needs, and have that family living
19 comfortably, they can't afford the house that I could
20 build them. So really, the catch-all, after I have to
21 turn them down, for a two or a three person family, is the
22 Low Income Housing Tax Credit project that's in El Paso,
23 one of mine or one of my competitors, but for that person
24 that has five children, their only option is to go to

1 public housing.

2 Our Housing Authority in the City of El Paso
3 has a large portion of their stock as five and six bedroom
4 units. You may not know that, but I want to bring that
5 forward, because the Housing Authority has identified that
6 need for the larger families, and has tried to serve it,
7 and tried to meet it with their units. I think Tax Credit
8 Program could go back to having -- and I'm not asking for
9 five or six bedroom units, but I think the four bedroom
10 unit, a small portion of it, in the QAP, I think is
11 something that's sorely needed along the border.

12 I would suggest specifically -- and then, also,
13 the formula that you have, even with the proposed change,
14 and I think the proposed change from this last week, with
15 the breakdown, with the 40 percent and the 60 percent for
16 three bedrooms and two bedrooms, is a big improvement over
17 what was originally proposed a month ago, but I wanted to
18 bring your attention with 40 and 60 rounding errors, I
19 still may have to put one bedrooms into my units, because
20 it says no more than 40 percent and no more than 60
21 percent can be three or two bedroom. Well, if I'm doing a
22 36 unit project, 40 and 60, or a 44 unit project,
23 sometimes that 39.9 and that 58.3 makes me build a couple
24 of one bedroom units.

1 Really, for my needs, again to address in El
2 Paso, the one bedroom unit, I think, I have no desire to
3 build because, to me, that is -- I think this is a family
4 program. I'm not interested in really meeting the needs
5 of a single able-bodied -- somebody who can get a job and
6 who can, you know, tough it out, and make it as a single
7 person. I think this is a family program. I'd like to
8 continue to develop, as I have been developing, units with
9 two, three, and four bedrooms.

10 So the specific change that I would propose and
11 request that you all consider is in 50.3 definitions.
12 It's in page 6 of the board book that you all put on the
13 Internet. Item 47 for ineligible building types, I would
14 suggest that in (e), where you say "any development
15 proposing new construction" -- this is an ineligible
16 building type -- "in any development proposing new
17 construction, other than a development, new construction,
18 or rehab, composed entirely of single family dwellings,
19 having units with four or more bedrooms," I would propose
20 that you change that from "with four or more bedrooms" to
21 with more than four bedrooms.

22 That would allow the next change that I would
23 request, which would be in (g), where the percentages are.
24 I would add a (iv) at the bottom, where you have "any

1 development involving new construction can't have more
2 than 60 percent one bedroom, 60 percent two bedrooms, 40
3 percent three bedrooms". I would request no more than 20
4 percent four bedrooms. I'm not asking to build a whole
5 complex of four bedrooms, and I'm not saying that every
6 family that comes through the door has those five and six
7 kids, but I have currently living in some of my tax credit
8 projects, some of those single moms with five or six kids.

9 So that's basically my comments on that. I'd
10 appreciate any questions that you all had to entertain,
11 but I really want to drive home that maybe this is a
12 unique border need. I'm not sure, but I can tell you from
13 my own hands-on experience, it is something that's sorely
14 needed in El Paso.

15 MR. CONINE: Bobby, I think it's incumbent
16 upon, at least it's my view, it's incumbent upon this
17 board to serve all the populations. Surely, you didn't
18 mean to say that you don't care about single people who
19 make low incomes in your particular neighborhoods, because
20 we feel like we have that responsibility to take care of
21 them, and they can't afford a two, three, or four bedroom
22 unit. They can only afford a one bedroom unit. I don't
23 know of any place in Texas that doesn't have a plethora of
24 single people in that particular condition.

1 I mean, that's why, again, because of my view
2 of economic feasibility, these projects have to have
3 economic feasibility to them. Most four bedroom rents, if
4 you do a survey around the state, more four bedroom rents
5 are the same as three bedroom rents, in practicality what
6 they get. The syndicators are telling me that when they
7 have troubled projects, those are the ones they get back
8 that have all three and four bedroom units, that they have
9 difficulties and have to step in and take over. The rest
10 of the world doesn't hear about that, but that is going on
11 out there.

12 I just can't imagine that you'd want to -- in a
13 period of society where we have divorce rates out the
14 wazoo, and single people running around being nurses and
15 firemen and teachers, and whatever the case may be, that
16 you'd want to construct a project that would not take care
17 of those people.

18 MR. BOWLING: Well, and again, you are privy to
19 information that I'm not aware of. I wasn't aware that
20 there's a higher foreclosure rate, or takeover rate, for
21 the larger units, but I can again make the issue specific
22 to my locale and my region. The rents for El Paso are so
23 low for the two bedroom units already. For example, a 50
24 percent below two bedroom unit is renting for less than

1 \$300 in El Paso. So I don't think that's a burden for the
2 single person to overcome.

3 I'm not really here -- and I probably was
4 insensitive when I made that statement and I apologize.
5 I'd like to take that about, about not caring about the
6 needs of somebody. That was probably not a good way to
7 couch that, but I think that the needs of the single
8 person are being met with the two bedroom. Now, that's
9 specific to my region.

10 I understand there are different areas around
11 the state, where the rents are substantially higher, where
12 a two bedroom may be renting for \$550, or something like
13 that, but from my perspective, in my region -- and this is
14 just, you know, I didn't bring a chart, or any data, or
15 any Fannie Mae backup to this, but the three and four
16 bedrooms are the more popular ones in El Paso.

17 The project that I have that's Sunset Palms on
18 the west side of El Paso, the only units that I have
19 vacant still, after finishing my project three or four
20 months ago, are the two bedroom units. The three bedroom
21 units went like that. I think, again, it's a reflection
22 of my incomes are so low that the three and four bedrooms
23 are affordable. I am charging the maximums on the three
24 and four bedrooms because my rents are so low to begin

1 with relative to the median family incomes in El Paso.

2 So I think you have some unique circumstances.

3 Texas is such a huge state and there's such a wide
4 variety of variance in incomes. I would think that maybe
5 staff could like at -- you know, and I would hate to have
6 to burden them with this, but I do think there are
7 specific instances in the state that are unique. I really
8 do think, not just for Region 13, but all the communities
9 along the border would really benefit from this option.

10 MR. CONINE: So maybe we should lower the two
11 bedrooms? Is that what you're saying? Since I hear
12 vacancies of two bedrooms are a problem all over the
13 state.

14 MR. BOWLING: Well, I'd be fine with that.

15 MR. CONINE: If that's the case in El Paso,
16 maybe we should shrink some two bedroom?

17 MR. BOWLING: I'd be fine with making me remove
18 them.

19 MR. CONINE: Any other questions of Mr.
20 Bowling?

21 (No response.)

22 MR. CONINE: Thank you.

23 MR. BOWLING: Thank you.

24 MR. CONINE: Mike Langford?

1 MR. LANGFORD: Hi, Delores. Good morning, Mr.
2 Chairman, members of the board. I'm here wearing several
3 different hats, as a for-profit developer, as the current
4 president of TAAHP, Texas Affiliation of Affordable
5 Housing Providers, and also a member of the public input
6 workshop with Cindy and Judith who you heard previously.

7 You have heard a lot about 264 and the one
8 thing I can say about 264 is no one can agree on
9 everything about 264. There's a lot of subjectivity, a
10 lot of work that needs to be done on defining certain
11 definitions. The one that I think we all agree on is the
12 notification issue. The signage issue, as a developer,
13 I'm not sure I agree with the requirement or the legality,
14 but that's not what I'm here to talk about.

15 The notification issue is very, very confusing
16 and it's hard, as it's written now, to identify the
17 pertinent, quantifiable community organizations. As a
18 developer, we do not want the burden of making a
19 subjective decision as to which ones we should contact,
20 which ones we should not contact. Within a certain
21 region, depending on the locale, it can be several dozen
22 or several thousand. I think you'll hear more about it
23 later this morning.

24 Oh, by the way, we do have a letter that I

1 think each one of you all received from TAAHP, from our
2 executive director John, that outlines this issue and
3 several others.

4 Again, on the notification, we've done it in
5 the past through the newspaper. Again, I don't really
6 have a problem with the notification, but we do need to
7 define. One of our suggestions is maybe there is a
8 database that the state, or the staff, which may be a
9 little bit tough in the beginning, or take some time, but
10 I think in the end, it would save a lot of time for
11 everyone.

12 MR. CONINE: Any questions?

13 MR. BOGANY: Yes. What would you suggest we do
14 for notification?

15 MR. LANGFORD: Well, again, see, I don't think
16 notification -- I agree with the concept, but we need to
17 define who we need to notify.

18 MR. BOGANY: What would be your suggestion?

19 MR. LANGFORD: Well, I mean, if they are a
20 neighborhood association that's within a certain
21 perimeter, and I think right now it's within the zoning
22 requirement --

23 MR. BOGANY: Would it be a zip code? Would it
24 be a mile away? Would it be adjoining --

1 MR. LANGFORD: I agree with fact that the
2 notification process is with the zoning process now, 300
3 feet, 500 feet, whatever the local requirement for the
4 zoning issue is.

5 MR. BOGANY: What if you don't have any zoning?

6 MR. SALINAS: Well, that's Houston.

7 MR. BOGANY: But that also is the largest area
8 of the state and the most population.

9 MR. LANGFORD: Sure.

10 MR. BOGANY: So what would we do there? What
11 would be your suggestion there?

12 MR. LANGFORD: You know, I'm not sure there is
13 a correct answer to that, Shad, but again, the Rotary
14 Clubs, some of those folks may or may not have an
15 interest, and they should or could be notified. As you'll
16 see later, again, in some of these areas where you have
17 the barbershop quartet -- and I'll let Granger discuss
18 that in a moment -- those aren't relevant, but they do
19 take time, and we do have to, under the way this currently
20 reads, we do have to notify those folks.

21 MR. BOGANY: Thank you.

22 MR. CONINE: Any other questions?

23 (No response.)

24 MR. CONINE: Thank you, Mr. Langford. Barry

1 Palmer?

2 MR. PALMER: Good morning.

3 MR. CONINE: Good morning.

4 VOICES: Good morning.

5 MR. PALMER: I'd like to speak on the QAP, a
6 couple of specific sections, on behalf of a number of my
7 Housing Authority clients. One of the sections is the
8 definition of an at-risk property.

9 The housing authorities in the state operate a
10 very old style of housing. Most of it was built between
11 1937 and 1950, very little in the way of major
12 renovations. So a lot of those properties, it doesn't
13 make sense to rehabilitate those properties. It's cheaper
14 to tear down and build new.

15 The Department has recognized that in the
16 definition this year, allowing, in the definition of
17 at-risk preservation setasides to include property that
18 the Housing Authority demolishes and builds back on the
19 same site, using HOPE VI dollars, which I think is an
20 excellent idea. However, there are only three housing
21 authorities in the state that have HOPE VI funds, Dallas,
22 Houston, and San Antonio.

23 Some of the smaller housing authorities in the
24 state are trying to do the same thing, but they don't have

1 HOPE VI funds. And so, what I would suggest is that the
2 language be expanded to include housing authorities that
3 are tearing down and rebuilding on the same site, using
4 their capital grant funds from HUD.

5 The second comment that I would like to make is
6 on the low income targeting points, where points are given
7 for leveraging other federal funds. One of the things
8 that's been included in there is using HOPE VI funds as
9 leveraging for low income targeting, but there's also a
10 provision that excludes being able to take those points if
11 the funding is coming from a related party.

12 On a HOPE VI transaction, it's always going to
13 be a related party involved because the Housing Authority
14 will be putting public housing units in the project, with
15 an assignment of operating subsidies. So the same way in
16 the Section 8 voucher section, where there's been an
17 exclusion from the related party aspect, if it's a public
18 Housing Authority, I would suggest that that same
19 exclusion be included with funding with HOPE VI funds.

20 Thank you.

21 MR. CONINE: Any questions of Mr. Palmer?

22 (No response.)

23 MR. CONINE: Thank you. Barry Kahn?

24 MR. KAHN: Mr. Chairman, board members, Ms.

1 Carrington, I would like to comment on the neighborhood
2 notification requirements. The threshold requirement in
3 the QAP requires one to notify the city clerk and obtain a
4 listing of all neighborhood groups. There are over 1,000
5 organizations in the City of Houston on the website. More
6 than likely, if we send a notice to the city clerk,
7 they're going to refer us to the website or send us the
8 same list of neighborhood organizations.

9 And then, a developer is required to show proof
10 that they have notified all the organizations, or give a
11 written explanation as to why the organization is not part
12 of the neighborhood. Either way, this is a huge time
13 factor. In the case of notices, it's a cost factor
14 because the only way to prove to the Department that you
15 sent the notice is to send it by registered mail, and
16 that's \$10 per letter. So if you have 1,000 neighborhood
17 organizations you have to contact, that's a cost of
18 \$10,000.

19 So I would like to suggest a limitation on the
20 amount of neighborhood groups to be contacted. My
21 suggestion is the developer would have a choice. He could
22 either notify all organizations within a mile or a half
23 mile, some restricted area, from the site, or notify
24 everybody within the same zip code. However, some people

1 may raise the issue that if it's on the border of a zip
2 code, you know, it's unfair to the people in the adjoining
3 zip code. So, say, within a quarter of a mile, or an
4 eighth of a mile, or some distance of a border of a zip
5 code, they would have to notify the organizations in the
6 adjoining zip code.

7 The listing by zip code appears to be pretty
8 easy because that appears to be the way the city keeps the
9 list, is by zip codes. That's the case in Houston. It's
10 the case in Dallas. And so, you know, that wouldn't be a
11 big imposition to find, you know, the listing. For people
12 in rural areas where, you know, a zip code may cover
13 several different cities, they could pick the more
14 restricted area of, say, a mile or a half mile or
15 whatever, within the site.

16 Politically speaking, if you start getting a
17 bunch of people that have to go to the post office and get
18 registered letters, in a city like Houston, say there's 20
19 or 25 applications, you're going to have a lot of people
20 upset and probably notifying their legislators. Also,
21 you're going to keep a lot of smaller organizations from
22 applying, because if they have to incur a \$10,000 expense,
23 or whatever the number is, to send out all these notices,
24 that's going to discourage a lot of people.

1 I know there's been some concern as far as the
2 definition of neighborhood. Well, I think it's going to
3 be pretty hard to argue that a neighborhood expands beyond
4 a certain region, when it says all neighborhoods need to
5 be notified. So I think the heat would be kept off the
6 Department in that regard.

7 If we're going to have to show proof of 1,000
8 notices, I had to see how big the QAPs are going to be and
9 what the storage requirement is going to be on the
10 Department.

11 Anyhow, one other proposal I'd like to suggest
12 also is that there's legislation that, too, deals with
13 counties of over 1 million, that the Department can't
14 allocate two deals within a mile of one another. I'd like
15 to suggest that that be for counties under 1 million also.

16 The reason for the is you're going to have a lot of point
17 chasers, the people looking more at the highest needs
18 score, where is the highest this score. What you're
19 likely to have is a number of very scoring applications
20 all within a very close locale. And then, there's going
21 to be all sorts of bickering and whatever in front of the
22 Department. So I'd like to suggest that, you know, that
23 the legislation be extended to counties under a million.

24 However, giving those smaller counties a little

1 bit of a break, where in larger counties elderly and
2 general are in the same category, it can't be one deal
3 either/or, it can be in the smaller counties that you
4 could have, within that same mile area, one elderly and
5 one general, but, you know, not more than one elderly and
6 one general within that one mile distance.

7 If anybody has any questions, I'd be happy to
8 answer them.

9 MR. CONINE: Any questions?

10 MR. SALINAS: What did the bill say, 264?

11 MR. CONINE: Ms. Carrington?

12 MS. CARRINGTON: Mr. general counsel or Brooke?

13 MR. WITTMAYER: I'm sorry. I didn't hear the
14 question.

15 MR. SALINAS: What does the bill say that we
16 have to do our notification by? I mean, he's right, you
17 know, if we have to notify 1,000 organizations, it would
18 be kind of --

19 MR. WITTMAYER: Yes, the legislation, Senate
20 Bill 264, says that we must notify neighborhood
21 organizations that are on record with the state or county,
22 of neighborhood organizations that are on record, whose
23 boundaries include the proposed development site. We've
24 researched to what extent this is available and we've not

1 found any location at the state where you can access
2 records of that nature. We've also checked at various
3 local sites and, again, we find it's difficult to find
4 these kinds of records.

5 Even where there are records of neighborhood
6 organizations, it's rare to find records where they can be
7 accessed and indicate that the boundaries of this specific
8 neighborhood organization include some specific
9 geographical area. So what we've tried to do is just
10 implement the provision the best we can, by asking the
11 developers to contact the local clerks, request what
12 information is available, and then make the notification
13 to the neighborhood organizations who are on record and
14 whose boundaries include the proposed development site.

15 If it's the board's direction, we might
16 consider a refinement to that, to address this problem
17 further, by looking at zip codes, and perhaps a half mile
18 radius of the site, even if we don't have evidence that
19 those neighborhood organization's boundaries include the
20 proposed site.

21 MR. SALINAS: Do we have the discretion of
22 saying half a mile from the development?

23 MR. WITTMAYER: We could do that as an effort
24 to implement the legislation. I believe we could, yes.

1 MR. SALINAS: I would think that would be
2 the -- a half mile or -- the same thing as the planning
3 and zoning that's got 300 feet, I think, that everybody
4 has to have a letter. This year, half a mile, about --
5 and I agree with you 10,000 is non-profit in Houston.

6 MR. WITTMAYER: Perhaps, with the notifying the
7 neighborhood organizations within a half mile of the
8 proposed development site, or those that have the same zip
9 code as the development site.

10 MR. SALINAS: Yes.

11 MR. CONINE: Mr. Bogany?

12 MR. BOGANY: I'd be in favor of the same zip
13 code, and if it borders another zip code, a half or mile
14 or so, but I would also -- and I hate to bring them back
15 up -- but I would like to hear what the public would think
16 of that also. Would you guys be in favor of that?

17 MS. EVANS: I think the zip code would be a
18 better idea than something like within 300 feet, because
19 there are some organizations who there might be a city-
20 wide neighborhood group, or there might be a large
21 master-planned community where if you only notify within
22 300 feet, you might not get them. So I think probably zip
23 code would be a much broader area, I guess as long as the,
24 you know, zip code doesn't change right across the street

1 from that development. So you might fall into another zip
2 code or within 300 feet.

3 MR. SALINAS: Okay. The only place you're
4 going to have a problem here is in the City of Houston. I
5 don't think anybody else would have a problem because of
6 your planning and zoning sending out notifications of
7 what's happening. I think the City of Houston, if you go
8 through the zip code, you're going to have a great deal of
9 paperwork. Half a mile would be about justifying the
10 neighborhood, of what's happening close to their, half a
11 mile away from the organization.

12 MR. KAHN: Mr. Chairman?

13 MR. SALINAS: Zip code would be very costly to
14 the developers.

15 MR. CONINE: Mr. Kahn?

16 MR. KAHN: All right. The reason I suggested
17 the zip code is a matter of proof, as a choice, showing
18 what's in a mile or half a mile, because otherwise it
19 would be a tremendous amount of work to prove up the
20 distance. Since the listings, both in Dallas and in
21 Houston, are by zip code, there's at least some sort of
22 more reasonable way of approaching the problem.

23 MR. BOGANY: So you're okay -- I guess you are
24 because you're suggesting it -- that the zip code and that

1 the border zip code, maybe a mile or a half mile into that
2 border, or whatever --

3 MR. KAHN: A quarter mile, yes.

4 MR. BOGANY: -- it would be. Ms. Carrington?

5 MS. CARRINGTON: Yes.

6 MR. BOGANY: What is Brooke's thoughts on this?

7 MS. CARRINGTON: Yes, sir.

8 MS. BOSTON: Do you want me to go ahead?

9 MS. CARRINGTON: Yes, Brooke Boston, Director
10 of Multifamily Finance Production.

11 MS. BOSTON: Thanks. One thing I just wanted
12 to point out in clarification, and make sure I'm clear
13 from Ms. Evans, is that there's two different distances
14 that have come up in notifications. My impression from
15 Ms. Evans is that she's referring to the distance that's
16 in lieu of signage, which has to do with a certain number
17 of feet if you don't want to do a sign. I thought you all
18 were talking about the distance that would be off of the
19 clerk lists, with the zip code.

20 MS. CARRINGTON: Right.

21 MR. BOGANY: Do we have a choice with this?

22 MS. BOSTON: Yes, I just want to be sure we're
23 talking about the same thing and that they appropriately
24 understood what you were thinking of.

1 MS. EVANS: Yes, I was talking about the
2 notification of letters --

3 MS. BOSTON: Okay.

4 MS. EVANS: -- because I don't agree with the
5 taking away the signage, the notification, putting
6 notification instead of that signage.

7 MS. BOSTON: Right, because you mentioned 300
8 feet --

9 MS. EVANS: Right.

10 MS. BOSTON: -- which ties in more with the
11 signage.

12 MS. EVANS: Right.

13 MS. BOSTON: Okay.

14 MS. EVANS: I was thinking about the letter,
15 too.

16 MR. BOGANY: Okay.

17 MS. BOSTON: Okay. From an administrative
18 perspective, I think it's very nice for the applicants to
19 have a clear delineation of what they need to do with the
20 clerk list and, definitely from a staffing perspective,
21 it's a clear cut way to handle it.

22 MR. BOGANY: So this is an alternative to the
23 sign?

24 MS. BOSTON: No.

1 MS. CARRINGTON: No.

2 MR. BOGANY: The sign still has to be there?

3 MS. BOSTON: Under a different section --

4 MS. CARRINGTON: Another section.

5 MS. BOSTON: -- you can do the sign or the
6 notification.

7 MR. BOGANY: Either one?

8 MS. BOSTON: Right.

9 MR. BOGANY: Okay.

10 MS. BOSTON: And then, this is notification
11 that's separate.

12 MR. BOGANY: Okay. Thank you.

13 MR. CONINE: Any other questions of Mr. Kahn?

14 (No response.)

15 MR. CONINE: Thank you, sir.

16 MR. KAHN: Thank you.

17 MR. CONINE: Granger MacDonald?

18 MR. MacDONALD: Good morning.

19 MR. CONINE: Good morning.

20 MS. CARRINGTON: Good morning.

21 MR. MacDONALD: I'm taking this opportunity to
22 speak to you about the same ongoing debate that Mr. Kahn
23 started about distance. I would like to point out in the
24 smaller communities, for example, my own town of

1 Kerrville, Texas, we have one zip code that covers three
2 communities, Center Point, Ingram, and Kerrville. We've
3 got to have a geographical distance boundary of a half
4 mile, thousand feet, or something.

5 If you pull a list right now in Kerrville,
6 Texas of neighborhood groups, you will get the Kerrville
7 Dutch Oven Society, the Kerrville Barbershop Quartet
8 group, the Kerrville Quilting Society. I think there's
9 some 61 more that go on like this that have nothing to do
10 with housing. Even notifying them in our same zip code is
11 ridiculous. I mean, that's the only word for it.

12 I don't know how we could, as developers, which
13 group that we need to notify or not notify, but I think
14 it's much more reasonable if you say notify all of them
15 within a half mile. And yes, we're going to be notifying
16 the barbershop quarters and the quilting societies within
17 a half mile, but at least we've narrowed it down to some
18 extent. I would like to suggest that as an amendment to
19 the board, if you would please consider it.

20 Initially, I'd like to also suggest that with
21 the pre-applications that are due on January 8 or 9, that
22 the self-scoring requirement be eliminated this year, or
23 if you wrongly self-score, you don't have a penalty,
24 because this new QAP is going to be very hard to

1 interpret, and scoring yourself this year is going to be
2 very challenging at best, and I hate to see someone lose
3 their early application points because they put the wrong
4 self-score together, as difficult as this all is to
5 interpret.

6 Thank you.

7 MR. CONINE: Mr. Wittmayer, could you refresh
8 my memory on the notification requirement to, I guess, the
9 neighborhood groups? How is it defined in the statute,
10 one more time, so we don't get the quartets, and the
11 quilting societies, and all that kind of stuff going on?

12 MR. WITTMAYER: Senate Bill 264 states that the
13 applicant and the Department as well are to notify the
14 neighborhood organizations that are on record with the
15 state or county whose boundaries include the proposed
16 development site. On its face, that seems simple enough.

17 The problem is that there's a dearth of records available
18 at the state, and at the county, and at the city for that
19 matter, which is the most likely place to find these kinds
20 of records, that indicates what neighborhood organizations
21 they have on record, and what their boundaries are.

22 That's the problem and we're trying to
23 implement about the best way we can.

24 MR. CONINE: So --

1 MR. SALINAS: So we have about a half a mile
2 away?

3 MR. WITTMAYER: Perhaps, I would suggest, and
4 there seems to be some consensus around it, if we used an
5 alternative notification that if the clerk's lists does
6 not indicate what neighborhood organizations exist and
7 what their boundaries are, then the developer would notify
8 all addresses on this clerk list within a one half mile
9 radius of the proposed development site, or alternatively,
10 within that same zip code.

11 MR. BOGANY: Can we have a -- why couldn't we
12 have a separate for rural and a separate for urban?

13 MR. CONINE: Yes.

14 MR. SALINAS: I don't think it's fair for the
15 rural communities and people that have zonings in their
16 own communities to have to deal with the problem we've had
17 in certain communities that don't have zoning.

18 I think every community in Texas, especially in
19 Kerrville, that has their own elected officials, and has
20 their own planning and zoning, and have their own
21 public -- they publicize in the newspaper, send out
22 letters to the community where these developments are
23 going to be at -- do not have any problems. I think
24 they're being penalized by bringing this 264.

1 I think the idea in the rural communities, and
2 in the Valley, and also in El Paso, along the border,
3 should be half a mile. I don't think that it's fair that
4 all these rules have to implement the problem in our
5 communities that have obeyed and stuck by the rules for as
6 long as they've been created as a city, especially
7 Kerrville and the small communities that have to deal
8 with, what, three other cities. I just don't think it's
9 fair.

10 We've got to amend this QAP --

11 MR. CONINE: Yes, I would agree with you and
12 we'll get to that here shortly.

13 MR. SALINAS: Okay.

14 MR. CONINE: Again, one of the things --
15 there's two questions here in my mind, distance and who.

16 MR. SALINAS: And who.

17 MR. CONINE: The who is the question on the
18 table right now. You said the statute, 264, said
19 neighborhood organizations.

20 MR. WITTMAYER: Correct.

21 MR. CONINE: It didn't say housing
22 organizations?

23 MR. WITTMAYER: No.

24 MR. CONINE: It did not say anything more

1 definitive --

2 MS. CARRINGTON: No.

3 MR. CONINE: -- other than that?

4 MR. WITTMAYER: It just says neighborhood
5 organizations.

6 MS. CARRINGTON: With no definition.

7 MR. CONINE: With no definition?

8 MS. CARRINGTON: Correct.

9 MR. WITTMAYER: No definition.

10 MS. CARRINGTON: Correct.

11 MR. CONINE: So the four of us get to decide
12 what the definition is.

13 MR. SALINAS: You're talking about a lot of
14 neighborhoods.

15 MR. CONINE: That's great. Okay. Thank you.

16 MR. MacDONALD: One alternative --

17 MR. CONINE: Yes?

18 MR. MacDONALD: One alternative, Mr. Chairman,
19 in the future might be that the Department develop its own
20 database that they say, if you're going to develop in this
21 area, here are the groups that you have to notify.

22 MR. CONINE: Well, the whole thing to me is so
23 difficult to take -- neighborhood organizations are not a
24 legal, organized entity, other than being a

1 non-profit organization and that is such a nebulous term.

2 There's no sanction to it. There's no electoral process
3 to it, like there is a city, county, state, you know --

4 MR. MacDONALD: Well, and to take that a step
5 further --

6 MR. CONINE: -- trying to blend the two is very
7 difficult.

8 MR. MacDONALD: -- some of them don't even have
9 by-laws or regulations. They're calling themselves a
10 neighborhood group and there's no real structure to them.

11 MR. CONINE: Right. Thank you, sir.

12 John Garvin?

13 MR. GARVIN: Good morning. My name is John
14 Garvin and I'm with the Texas Affiliation of Affordable
15 Housing Providers. You've heard from some of my board
16 members already so I won't be repetitive.

17 If you look on page 2 of today's response to
18 some of the outstanding comments, we have it in writing,
19 the rural option and urban option using the zip code and
20 if you're in a quarter mile of an adjoining zip code,
21 notifying that. I think that works great with what the
22 neighborhood organizations were saying earlier. You're
23 not missing that one right over the edge of the boundary,
24 and we agree, and this doesn't prevent anyone from coming

1 and saying anything about your development. It's just who
2 you notify.

3 Again, I'd like to thank you for the
4 opportunity to comment. We really -- I mentioned this a
5 few months ago about maybe putting together this statewide
6 database and even the author of the bill said that he'll
7 file legislation to do it. If I'm not mistaken, I think
8 you can use the money you have, with the increased bond
9 application fee, as part of the campaign to get
10 neighborhoods involved in this process.

11 So we think there's an answer in sight. We
12 wish we had done it a little earlier so we wouldn't be
13 going through this right now.

14 It's funny. We have a lot of the same
15 agreements with the neighborhood organizations on the
16 subjectivity of the letters. I think we're coming after
17 it at a different angle. We're afraid you'll give too
18 much subjectivity to the organizations and they're afraid
19 you'll give too much to us. So we would like to see more
20 parameters on the EARAC committee scoring, just so that
21 especially if you do still require the self-score, that
22 people have somewhat of a clue on how those points will be
23 gathered.

24 We also think -- and you'll hear more of this

1 from other members -- we think that the state officials
2 are required, you're required to give points to the state
3 senators and state representatives, but you're not
4 prohibited from giving points to mayors or county judges.

5 We really think that you shouldn't give points to one and
6 not the other. We think that a mayor has a lot of input
7 about that community. I'm not just trying to get on the
8 Mayor's side. It's a great opportunity. I couldn't
9 resist.

10 Also, I think Bobby did a good explanation of
11 there's so much diversity in communities that we do think
12 restrictions on unit mix is a little tough to handle. I
13 think the staff's proposal to delete it entirely is the
14 best recommendation, but the 60-40 is liveable.

15 That's all we really had to say. We'd be more
16 than willing to work on that statewide database with you.
17 Thank you very much.

18 MR. CONINE: Any questions of Mr. Garvin?

19 (No response.)

20 MR. GARVIN: Thank you.

21 MR. CONINE: Thank you. Diana McIver?

22 MS. McIVER: Thank you. I appreciate the
23 opportunity to address the board this morning. My name is
24 Diana McIver and I also have several hats in this process.

1 My firm serves as consultants to non-profits developing
2 tax credit projects. We also serve as developer in rural
3 communities and about to be ex-urban communities. Also,
4 I'm vice president of TAAHP, and so, of course, have to
5 agree with everything John Garvin just said to you. I was
6 also a member of the 2004 working group on the QAP and
7 that has given me an enormous appreciation of what the
8 staff has to do to produce one of these documents.

9 So my comments today reflect some of the ones
10 that you've heard from other folks, but a couple of
11 clarifications as well. The first one is that I actually
12 applaud the fact that the agency added a proration of
13 credit cap for joint ventures in the rural areas that have
14 capacity building, but just as a point of clarification,
15 the language there says that that is the case if the size
16 of the project were 76 units or less, rather than less
17 than 76 unites, which is the definition that applies
18 throughout the rest of the QAP. So I was just asking for
19 a technical correction there.

20 The second one it limitation on the location of
21 developments and that's in the funding within a mile of
22 each other. I find it hard to believe that I know that's
23 in the statute, but other parts of the statute have the
24 exception for senior housing versus family housing, or for

1 rehab. So it just seems to me it would probably be
2 worthwhile to check the legislative intent of that
3 particular section to see if indeed they didn't mean that
4 to have the same parameters as the rest of the rules and
5 laws that relate to locating two developments within a
6 mile of each other.

7 The third one is on threshold amenities. If
8 you read the section on threshold amenities, there's now a
9 list of about eight and a developer has to choose four of
10 those, but then when you get back over to the points for
11 amenities, there's a threshold requirement there as well.

12 There's some duplication between them and I think it's
13 going to be difficult.

14 I know that the reason that we have a threshold
15 on the amenities is because staff wants developers to put
16 a certain amount of amenities. I think that we could, by
17 having, say, a minimum score of 50, I think we could solve
18 both problems and consolidate the threshold amenities into
19 the point-scoring amenities, and then create a minimum
20 score. I think that gets past that problem.

21 One issue that just really drives me crazy --
22 and it gets back to working in the ex-urban issues -- and
23 that's the newspaper notice. People have talked about
24 notifications today, but nobody's really addressed the

1 newspaper clarification. The way it's written now, if you
2 had a project in Waxahachie, as an example, you would
3 advertise not just in the Waxahachie newspaper, which is a
4 five day a week newspaper, but you would also have to
5 advertise in the Dallas Morning News, the Fort Worth
6 Star-Telegram, because it's requiring you to advertise in
7 your local paper plus all of your metropolitan papers.

8 So my recommendation -- and it's slightly a bit
9 of a compromise from the one that's in your TAAHP letter,
10 and also what's in my letter -- but in thinking about it
11 this morning, if we could have it such that if you're in a
12 community that has a newspaper that's published at least
13 five days a week, then could you be exempt from also
14 publishing in the metropolitan paper as well?

15 I will say, I mean, if you take an example like
16 Texas City, Texas City has a regular newspaper. It's
17 published six days a week. Galveston does, too. And yet,
18 they're part of the same metropolitan area. It seems like
19 a project in Texas City doesn't need to notify Galveston.

20 You have the same thing when you're in, like, Plano and
21 Dallas Morning News.

22 So it seems like if there's a major -- well,
23 it's not a major, but for that community, it would be a
24 major paper, five days a week, give us the exception,

1 because it is very expensive to advertise in those
2 newspapers, and I really don't think that is where you get
3 your comment, now that we're doing signage and all of the
4 other notification as well. So I feel strongly about that
5 one.

6 Quantifiable community participation, we've had
7 a lot of conversations this morning, I think we're on the
8 right track, but I think what we're losing is the points
9 that we got last year for other kinds of organizations. I
10 think we've put so much focus on neighborhood
11 organizations -- and I think those are important -- but
12 when you go into rural communities, or even a lot of our
13 ex-urban communities, they don't have what we're thinking
14 of as neighborhood organization associations.

15 So let us get points for letters from the Boys
16 and Girls Club, or the Chamber of Commerce, and things
17 that may not be on the clerk's list. Let's go back to
18 including that broad, reasonable definition of points for
19 neighborhood support, even though they may not qualify
20 within that definition. I think they're two separate
21 things. I think notices and support should be treated
22 separately.

23 Community support from elected officials,
24 here's our proposal. Basically, again, we should not be

1 sitting there giving six points for a state official
2 elected letters, three each, and not give points for a
3 letter from a mayor, or a resolution from a city, or a
4 letter from a county judge, or a resolution from a county
5 commissioner's court.

6 So our proposal is this, you're giving six
7 points for the state elected, three each. They're minus.

8 A letter against, you get three minus points. Let's go
9 ahead and add three points for a mayor or a city council
10 resolution, and three points for a county judge or a
11 resolution. That way we take it to twelve points and the
12 reason we're saying only give nine points for that
13 category is you could have an instance where you have a
14 project in a county, where you don't have a mayor's
15 letter.

16 So your maximum eligibility would be for nine
17 points, but I really think -- Mayor Salinas, I think your
18 going to agree with us on this one -- mayors should have
19 three points. Right? I think you'd also say that a
20 county just should get three points.

21 MR. SALINAS: Right, because those are the
22 people that are involved with the community. Those are
23 the people that talk to them --

24 MS. McIVER: Right.

1 MR. SALINAS: -- and know what the project is
2 in the local level. We're getting away from that --

3 MS. McIVER: Yes.

4 MR. SALINAS: -- and those people are going to
5 be accountable to the people who they represent, and as
6 long as we don't forget that --

7 MS. McIVER: Yes.

8 MR. SALINAS: -- because there are elections
9 every two years or every four years --

10 MS. McIVER: Right. Exactly.

11 MR. SALINAS: -- and people do have the process
12 of agreeing with them on election day. Those are the
13 people that should decide where the project's going to be
14 at.

15 MS. McIVER: Right. Interestingly enough, I
16 found last year, in looking for state Senate letters, that
17 basically they will say, Do you have a letter from the
18 mayor? Bring that to me and then I'll give my support,
19 but, very definitely, I think that's got to go into this
20 category.

21 My last comment is I really do appreciate that
22 the staff came with us on a lot of the cost per square
23 foot issues, but when you are doing -- they're still being
24 penalized when you're doing three-story, or high-rise,

1 elevator senior buildings because what happens is, those
2 hallways, you don't get credit for. And so by not using
3 gross rentable as the denominator, and just using net
4 rentable as the denominator, it still treats senior
5 multi-story projects unfairly.

6 So all I'm asking is, maybe as a compromise, if
7 we could include hallways, enclosed, air-conditioned
8 hallways, into that calculation. Then, I think it's a
9 little more fair for the senior properties.

10 Those are my comments. I thank you very much.

11 MS. CARRINGTON: Thank you, Diana.

12 MR. CONINE: Any further questions?

13 (No response.)

14 MR. CONINE: Thank you.

15 MS. CARRINGTON: Mr. Chair?

16 MR. CONINE: Yes, ma'am?

17 MS. CARRINGTON: I would like Chris to address
18 the support letters from elected officials.

19 MR. CONINE: Okay.

20 MR. WITTMAYER: You might debate the policy
21 choices that might be made about scoring, but the
22 Department staff has tried extremely hard to follow the
23 requirements of Senate Bill 264, and even given that
24 effort, we've received some criticism, but I just note for

1 the board that 264 explicitly states that we are to give
2 points based on the level of community support, evaluated
3 on the basis of written statements from state elected
4 officials. We've been told informally that the intent was
5 that this be limited to state elected officials and that
6 local officials not receive points for their input.

7 Also, to address one other point that Ms.
8 McIver --

9 MR. CONINE: Whoa. Wait a minute. I didn't
10 hear that. In the statement you read, even though you've
11 been told something by this mysterious voice out here, I
12 didn't hear that in the actual language that you read. My
13 interpretation, or my interpretation of that I heard was,
14 we must give it to state elected officials. It did not
15 exclude local officials.

16 MR. WITTMAYER: It simply states that we are to
17 give points for state elected officials.

18 MR. CONINE: They wanted to make sure that they
19 got included in the mix, is the way I hear it.

20 MR. WITTMAYER: I think the statutory
21 construction, the principle that would be applied to this
22 language, is that because it says state elected officials,
23 and does not mention points for the local officials, that
24 the intent of the provision was to give points only for

1 state elected officials, and not for elected officials.

2 MR. SALINAS: Can you define state elected
3 officials?

4 MR. WITTMAYER: The state Senator and state
5 representative.

6 MR. SALINAS: How about the county
7 commissioner? He's certified and, you know, the county
8 commissioner and county judge are state elected officials.
9 They do get confirmed --

10 MR. CONINE: Read it to us one more time.

11 MR. SALINAS: You know, I can agree with the
12 mayor and city council, but on county commissioners are
13 state, and county judges are state elected officials.

14 MR. WITTMAYER: The implementation of the
15 statutory language, of course, is ultimately up to the
16 board. I'm merely here to bring you the language of
17 Senate Bill 264, which states that the Department will
18 score the applications based on the level of community
19 support for the application, evaluated on the basis of
20 written statements from state elected officials.

21 MR. SALINAS: I would like to suggest that that
22 includes the county commissioners for our state elected
23 officials, and county judges. I don't know about mayors.
24 I would have a conflict there, but if it's okay with Mr.

1 Conine, I will go ahead and include that.

2 MR. CONINE: Mr. Bogany?

3 MR. BOGANY: In reading that, Chris, are you
4 saying that her suggestion was that we add mayor and city
5 council, or city resolution in that. Do we have the
6 ability to do that, based on the Senate bill, because what
7 I heard was just basically include make sure you include
8 state people? So could we add more points? Or does that
9 change anything?

10 MR. WITTMAYER: I think we can make some
11 arguments about what the intent of this language is. Is
12 it to limit the point scoring only to state officials,
13 thus excluding local officials? Or is there room to
14 include local officials? Ultimately, the board is
15 empowered to apply this language. We have been told that
16 it was the intention of the language to exclude local
17 officials.

18 MR. BOGANY: Okay. That's what I wanted to
19 know, what would it contain.

20 MR. SALINAS: Can we include the county
21 commissioners and county judge? Those are state elected
22 officials and are certified by the governor's office.

23 MR. WITTMAYER: That's up to the board to
24 decide, Mayor.

1 MR. CONINE: Thank you, Mr. Wittmayer.

2 MR. WITTMAYER: If I could quickly address one
3 final point about the points for organizations other than
4 neighborhood organizations. Again, I think the same
5 principle would apply there. We are instructed to score,
6 as the second highest scoring item, quantifiable community
7 participation based on letters from neighborhood
8 organizations and it doesn't talk about other types of
9 organizations for scoring.

10 MR. BOGANY: I have a question.

11 MR. CONINE: We need to decide what those are?

12 MR. WITTMAYER: Neighborhood organizations is
13 not defined.

14 MR. CONINE: Right. We're going to have to
15 decide then.

16 MR. BOGANY: Mr. Wittmayer, in regards to the
17 newspaper, will we be out of line, are we following Senate
18 Bill 264, if we said, if it's an ex-urban area, we can go
19 with a daily paper?

20 MR. WITTMAYER: I need to double check that.

21 MR. BOGANY: Okay.

22 MR. WITTMAYER: What I'll do is as soon as I
23 sit down -- Brooke, do you recall the --

24 MS. CARRINGTON: I don't think it addresses it.

1 MR. WITTMAYER: Okay.

2 MS. CARRINGTON: I think that it's silent and
3 that we made a decision two or three years ago to require
4 advertisement in both a local newspaper, if it was a
5 smaller community, and a metro newspaper. So that's one
6 thing that I think is at the board's discretion.

7 MR. WITTMAYER: Okay.

8 MR. CONINE: Why don't we take a ten minute
9 break at this point? That's the last public comment that
10 I have on the QAP. Let's take a ten minute break and
11 we'll be back shortly before 10:00 to continue
12 deliberation.

13 (Whereupon, a short recess was taken.)

14 MR. CONINE: We'll call the board meeting back
15 into session. I've got one more witness affirmation form
16 that I need to take care of prior to closing off public
17 comment and it's Jeremy Mazur. Jeremy, where did he go?
18 There he is.

19 MR. MAZUR: Good morning, Mr. Chairman, members
20 of the board. My name is Jeremy Mazur. I'm the
21 Legislative Director to State Representative Bill
22 Callegari, who sponsored SB 264 during the 78th regular
23 session. I'd like to provide some clarifying comment with
24 regard to my boss' position on the points for elected

1 officials.

2 During the session, he was very interested in
3 having the points be attached to letters of support or
4 opposition from elected officials, in particular, negative
5 points for negative letters and positive points for
6 positive letters. I certainly know that he wanted that to
7 apply to state elected officials and I also believe that
8 he wanted that to apply to local officials, including
9 mayors and county commissioners. So I just wanted to
10 stand here and provide this clarification to you right
11 now.

12 MR. CONINE: I'm glad to hear that.

13 MR. MAZUR: Do you all have any questions about
14 that?

15 MR. SALINAS: Can you put it in writing?

16 MR. CONINE: Yes, can you put it in writing?

17 MR. MAZUR: I mean, I can certainly talk to my
18 boss. If you guys need a letter, I can certainly talk to
19 him about that.

20 MR. CONINE: Well, we -- just my thoughts
21 during the break were to try, if we could, maybe, as a
22 board, construct something that would be in the QAP that
23 would allow for those particular points, subject to an
24 opinion letter maybe coming from the AG's office, on the

1 legislation and I'm sure a letter from the sponsor of the
2 bill to either us and/or the AG's office, if the board
3 decides to do that in the ultimate QAP language, would be
4 very helpful.

5 MR. MAZUR: One thing, to sort of just add on a
6 bit, I mean, just thinking back to the times in Katy, with
7 the developers there, I mean, he certainly wanted his
8 letter to have weight there, but I also know if you look
9 at the case of, like, the Katy mayor or the county
10 commissioners involved, he would want equal weight applied
11 to those.

12 MR. CONINE: I'm sure the state representative
13 supports local officials and their elected abilities, and
14 also would not want to be accused of the state officials
15 getting into land use policies, which are local previews.
16 And so, I appreciate you clarifying that.

17 MR. MAZUR: Okay.

18 MR. CONINE: We'll try to take that under
19 advisement.

20 MS. CARRINGTON: Thank you, Jeremy.

21 MR. CONINE: Any other questions?

22 (No response.)

23 MR. CONINE: Okay. I'm going to cut off public
24 comment on item 3(a) and go to Ms. Carrington, the

1 allocation plan for the tax credits for 2004.

2 MS. CARRINGTON: Thank you, Mr. Chairman. The
3 board approved the draft of the QAP on August 14. That
4 draft went out for public comment. The period of public
5 comment on the QAP was August 29 to October 10. This was
6 one of the documents that was discussed at our 13
7 consolidated public hearings around the state. As we've
8 indicated, about 250 people did attend those public
9 hearings and most of the comment that we did receive
10 related to our draft of the Housing Tax Credit Plan.

11 What the board is going to be asked to do today
12 is to actually take two actions related to the Tax Credit
13 Program. The first would be to repeal Title X, Part 1,
14 Chapter 50 and then, the second action would be to adopt
15 the new Title X, Part 1, Chapter 50.

16 MR. CONINE: Can I get a motion on the appeal
17 so we can get that behind us?

18 MR. BOGANY: So moved.

19 MR. GONZALEZ: Second.

20 MR. CONINE: Any further discussion?

21 (No response.)

22 MR. CONINE: All those in favor, signify by
23 saying aye.

24 (A chorus of ayes.)

1 MR. CONINE: All opposed?

2 (No response.)

3 MR. CONINE: Thank you.

4 MS. CARRINGTON: Thank you. As the board looks
5 at the second page behind the action item, you will see a
6 memorandum from Brooke Boston, who is the Director of our
7 Multifamily Finance Production Division. What the staff
8 has done is summarize the comments that we received at our
9 public hearings, also that were received by letter and by
10 E-mail, and what we've done is organize those comments
11 based in sequential order, with the items in the QAP, and
12 we have summarized the comments, and then we have provided
13 a department response.

14 Each of the section items of the QAP, you will
15 notice that there are numbers after them. If you look at
16 50.2, Coordination with Rural Agencies, you'll see two
17 numbers, that is, 10 and 48. If you go to pages 43 and 44
18 of our memorandum, what you will note on those two pages,
19 are who are the commenters who made those comments. So if
20 you're interested in who commented about a particular item
21 to the department, then you can go to pages 43 and 44 to
22 see where those comments came from.

23 We'd like to ask you to take this in actually
24 two parts this morning. The first is some clarifications,

1 corrections, and inconsistencies that staff has discovered
2 in the QAP. I'd like to ask Brooke to go over those. And
3 then, the second part of it will be you all's discussion
4 on the qualified allocation plan for 2004.

5 MS. BOSTON: Hi.

6 MR. CONINE: Hello.

7 MS. BOSTON: Brooke Boston, Director of
8 Multifamily Finance Production. As Edwina mentioned,
9 there are three technical clarifications that we wanted to
10 mention.

11 One, the first is under the definition for an
12 eligible building type. This is more of an inconsistency
13 between the memo and the black line QAP that you received.

14 I'm guessing that this may be discussed anyway, but the
15 actual memo had said that staff recommended taking out the
16 limits on the unit caps, the 60 percent at one, 60 percent
17 at -- well, the original proposed -- and our actual
18 recommendation was to take it out entirely, but we
19 provided alternative language, but the black line QAP
20 actually shows it with the alternative language in here,
21 and that's actually not our recommendation.

22 So that was one clarification. The second is
23 that for a non-profit, we had made sure -- in the memo, we
24 mentioned that for qualified non-profit development, we

1 were moving the language back to only needing to be
2 controlling and it did not need to be the sole general
3 partner and we didn't make the change in it in the second
4 location. I just want to make the change so that it's
5 consistent throughout the document, so it's clear.

6 The third is under sponsor characteristics, we
7 had proposed adding back in language for HUB points and,
8 inadvertently, didn't put a number of points, only the
9 language for the points. Our suggestion from last year's
10 QAP would be three points. So if this isn't discussed, I
11 would suggest that we put it in as three, unless you all
12 want to recommend something else.

13 Those are my only things.

14 MR. CONINE: Are you finished with your
15 presentation?

16 MS. CARRINGTON: Yes, sir, I am.

17 MR. CONINE: So we need to open it up now for
18 discussion of the board.

19 MR. BOGANY: I have a couple comments.

20 MR. CONINE: So do I. Go ahead.

21 MR. BOGANY: Okay. Well, I'll let you go
22 first.

23 MR. CONINE: No, I don't want to go first. You
24 go first. I go first for the last several years. You go

1 first this time.

2 MR. BOGANY: I would like for us to adopt the
3 rules in regards to the zip code and notification, the
4 ones that want to be what Mr. Kahn brought up, and also
5 being able to separate urban from rural, or ex-urban from
6 rural, because in the rural areas, what the other speaker
7 said that hey, it ought to be a mile, or a half a mile
8 from the project, being able to have that in there.

9 MR. CONINE: You want to discuss that?

10 MR. BOGANY: Yes, I wanted to just put it out.

11 MR. CONINE: Let's put it out and discuss that
12 so we can kind of get it behind us. Brooke, would you
13 mind clarifying for the board what's currently in the
14 proposed QAP, because you mentioned two different
15 notification requirements?

16 MS. BOSTON: The section you are referring to
17 is, let's see, in our threshold requirement regarding
18 notification and it's on page 25 of 65, and it rolls onto
19 page 26, relating notification. Right now, it's drafted
20 as the applicants send a letter to the city and county
21 clerk, and then, whatever is in that letter, like whatever
22 list is attached, is who they'd have to notify.

23 And so, in the circumstance that Mr. Kahn
24 raised, he's saying in Houston that list is 1,000

1 entities. That's where they generated the suggestion,
2 perhaps, we should limit this, so both on their side it's
3 not that onerous. You know, there does give some language
4 in here already that says if they don't want to notify
5 some of those, that they can document that it doesn't have
6 the neighborhood in the boundaries, that they wouldn't
7 have to notify, but they have to prove that's the case,
8 which is also kind of an onerous task. So this would be
9 an easier task for doing it, for them as well as for
10 staff.

11 MR. BOGANY: Is going with the zip code and if
12 you've got a bordering zip code, a half a mile or a mile
13 away --

14 MR. CONINE: No, this is under the notification
15 as a choice over the signage issue?

16 MS. BOSTON: No.

17 MR. CONINE: This is just general notification
18 that here we come?

19 MS. BOSTON: Correct.

20 MR. BOGANY: [inaudible.]

21 MS. BOSTON: This is not the signage section.
22 There's a section of threshold that is solely about
23 notification as it relates to city and county clerks, and
24 then whoever is in there letters.

1 MR. CONINE: So you've got newspaper
2 notification, which we're not dealing with yet, and this
3 other notification, and signage, and/or area notification?

4 MS. BOSTON: Correct.

5 MR. CONINE: You have three different
6 notifications?

7 MS. BOSTON: Correct, yes, plus notifications
8 to officials.

9 MR. BOGANY: Can I ask you a question? If I
10 decide to notify within that zip code, on my own way, or
11 whatever, does that mean I don't have to put a sign up?

12 MS. BOSTON: No, you still have to do --

13 MR. BOGANY: You still have to put your sign
14 up?

15 MR. CONINE: You have to, yes.

16 MS. BOSTON: Yes.

17 MR. BOGANY: Okay.

18 MR. CONINE: Or --

19 MS. BOSTON: Well, under the signage section,
20 there's an either or. You do the sign or you do a
21 notification to residents --

22 MR. CONINE: To property owners.

23 MS. BOSTON: -- within a certain area.

24 MR. BOGANY: Okay.

1 MS. BOSTON: These notifications aren't to
2 residents, they're to entities.

3 MR. CONINE: Neighborhood organizations.

4 MS. BOSTON: Right.

5 MR. CONINE: Okay. Now, I got you. All right.

6 MR. BOGANY: Along with that, the five day,
7 with regards to the local, what's your thoughts on the
8 local paper? Like in Texas City, for example, the five
9 day a week -- I mean, we have one paper in Houston and I
10 know the cost is very high to do that. I'm just thinking,
11 I would think the locals would probably read both papers.

12 It would look like the local paper, because it's having
13 to deal with it -- what's the thoughts on that?

14 MS. BOSTON: I think that makes sense. You
15 know, we've just been cautious over the past few years
16 because we did have specific developments a few years back
17 that hadn't made notifications in a particular paper, and
18 that's the paper the community read, and so, it caused us
19 problems, which is kind of why we went this way, but I
20 think this other suggestion makes sense as well.

21 MR. CONINE: Ms. McIver's suggestion, is that
22 the one you're referring to?

23 MS. CARRINGTON: Yes.

24 MS. BOSTON: Yes.

1 MS. CARRINGTON: Yes. If it's published, I
2 think, Diana's case it was five days a week that it was
3 published.

4 MR. CONINE: Okay. So let's get it narrowed
5 down here. On the newspaper notification, board members,
6 do we have any issues with Ms. McIver's suggestion that we
7 give them another option in the metropolitan statistical
8 areas? Are we okay with that? Shall we --

9 MR. BOGANY: I'm okay with that.

10 MR. CONINE: Should we place that in the form
11 of a motion to amend --

12 MR. SALINAS: Yes.

13 MR. CONINE: -- on the newspaper side?

14 MR. SALINAS: I move.

15 MR. CONINE: Okay.

16 MR. BOGANY: Second.

17 MR. CONINE: And a second. Any other
18 discussion?

19 (No response.)

20 MR. CONINE: All those in favor, signify by
21 saying aye.

22 (A chorus of ayes.)

23 MR. CONINE: Okay. Now, let's go to the
24 neighborhood group notification. What's been suggested is

1 that we go to a half mile, was that the kind of consensus
2 that I heard?

3 MS. BOSTON: Actually, I think the proposal was
4 that if you're in an urban or ex-urban area, it would be
5 by zip code. If the zip code boundary is within a half a
6 mile of the development, you'd have to do the adjacent zip
7 code as well. And then, if you're in a rural area, it
8 would be a specific distance, a mile, a half a mile, the
9 board's discretion.

10 MR. SALINAS: A half a mile.

11 MR. CONINE: A half mile? Okay, everybody?

12 MR. SALINAS: I would say half a mile. I
13 really don't think that the rural communities in Texas
14 have any problems with any of this because we do have not
15 too many non-profits and the people that we have in our
16 neighborhoods, we know, but half a mile would be about the
17 right thing to do.

18 MR. CONINE: Okay. Any further discussion from
19 any board members?

20 (No response.)

21 MR. CONINE: Why don't we get a motion to make
22 that adjustment?

23 MR. SALINAS: So moved.

24 MR. BOGANY: Second.

1 MR. CONINE: Okay. All those in favor, signify
2 by saying aye.

3 (A chorus of ayes.)

4 MR. CONINE: All opposed?

5 (No response.)

6 MR. CONINE: Motion carries. Now, we have --
7 on the signage and other notification, we really haven't
8 had much comment on that, that I heard today, unless I
9 missed something.

10 MR. SALINAS: I would think the sign, we just
11 have a sign at the development site.

12 MR. CONINE: A big sign?

13 MR. SALINAS: A big one.

14 MS. CARRINGTON: Brooke, would you reference
15 that section, please, of the draft QAP?

16 MR. BOGANY: Can I just ask a question?

17 MR. CONINE: Sure.

18 MR. BOGANY: Did the public have a problem with
19 the sign?

20 MR. CONINE: It's in TAAHP's comments, I think,
21 but I don't --

22 MS. McLAUGHLIN: We did want an alternative
23 [inaudible] --

24 MS. CARRINGTON: What --

1 MR. CONINE: Okay.

2 MS. McLAUGHLIN: -- as to the best method to be
3 possible to the [inaudible] --

4 MR. CONINE: Okay.

5 MS. McLAUGHLIN: -- issued right now.

6 MR. CONINE: The problem I have with that is
7 many cities in Texas have city ordinances that say that if
8 you don't own the land, you can't put a sign on it. So,
9 again, to prevent the state from cramming down to the
10 local level certain things, we wanted the flexibility to
11 allow notification, like in the zoning process, in
12 everywhere but Houston, but to allow for that flexibility,
13 because when a property owner is getting something
14 rezoned, it's him doing it.

15 That's why a city can put a sign on his
16 property, but when another person is contracting to buy,
17 you can't put -- at least in a couple towns that I'm aware
18 of -- you cannot put a sign on that property because you
19 don't own it yet. So that becomes an issue.

20 MR. SALINAS: Can we do that, exclude the rest
21 of the state, and just include the Houston area?

22 MR. CONINE: What?

23 MR. SALINAS: Would that be -- I mean, that's
24 the fair thing to do.

1 MR. CONINE: I think, Mr. Mayor, I think we
2 just leave the thing in the QAP the way it is.

3 MR. SALINAS: Okay.

4 MR. CONINE: It gives the developer the
5 flexibility of doing either or, depending on which
6 situation is more pertinent to him.

7 MR. SALINAS: Okay.

8 MR. CONINE: I think we just leave it like it
9 is.

10 MS. BOSTON: Okay. And so, that was --

11 MR. CONINE: That's the three notification
12 issues. We're done with those. You had some other
13 things, Mr. Bogany?

14 MR. BOGANY: Yes, I wanted to talk a little bit
15 about the deal with the razing, or tearing down, Housing
16 Authorities in rural areas. I know you can do it with the
17 HOPE funds, you know, but what happens when you get an old
18 housing project in a rural community and they've got to
19 have so many funds. Is it an alternative to help them out
20 where it's cheaper to raze it? Is there something we can
21 do with that or are we violating something by --

22 MS. BOSTON: I think the specific proposal from
23 Mr. Palmer was that we should, just to our at-risk
24 definition, augment it a little and say that if you

1 included not just HOPE VI funds, but the actual capital
2 grant funds, that come from HUD to the PHA, that that
3 would resolve some of their concerns and allow that to
4 cover more of the rural PHAs.

5 MR. CONINE: Are we still covering the world
6 though? Are we still -- I mean, I think the intent, at
7 least this board member's intent would be for any
8 restricted income project within the state of Texas,
9 that's old and dilapidated, if they want to tear it down,
10 and put the same number of units on there, then that
11 would, at least in my mind, maintain that particular
12 preservation of housing stock for 150 units, or however
13 many it was. Are we using the capital grants from HUD
14 with Housing Authorities, are we still including everybody
15 else? Or is that just all the universe?

16 MS. BOSTON: Well, just to clarify, the at-risk
17 definition is a little bit more restrictive than what
18 you're saying, in that the at-risk definition requires
19 that you'd actually have to be losing the affordability on
20 the property. So even if it's had funding, it's
21 dilapidated, if it's still got ten more years of
22 affordability, it wouldn't be eligible under the
23 definition, just for clarification purposes.

24 MR. CONINE: Okay.

1 MS. CARRINGTON: That's not a change of the
2 definition. That is our definition for at-risk.

3 MR. CONINE: Okay. Right.

4 MS. BOSTON: Right. So there is a universe of
5 who's eligible already and this would just be adding one
6 extra category of who would be eligible.

7 MR. CONINE: Okay.

8 MR. BOGANY: Could we do that?

9 MR. CONINE: I'm open.

10 MS. BOSTON: I think the at-risk definition is
11 defined in 2306, I'm pretty sure, and I know we've
12 augmented it in some respects. So I guess I would defer
13 to our general counsel to make sure he's comfortable with
14 that.

15 MR. CONINE: Oh, boy, Counsel, we need your
16 help once again.

17 MR. WITTMAYER: Again, this is similar to the
18 state and local letter points, as to whether or not we're
19 going to follow the language of the statute and read it to
20 exclude that which is not mentioned or to expand it
21 somewhat in a way that we believe is reasonable. I think
22 the point is legally arguable, whether or not you're
23 permitted to make that expansion, and ultimately is up to
24 the board's discretion.

1 MR. CONINE: So maybe my previous statement
2 would apply here. We could go ahead and allow for that,
3 within the QAP, subject to getting an opinion letter from
4 the Attorney General's office.

5 MR. WITTMAYER: We could do that or we could
6 just go ahead and just --

7 MR. CONINE: And just do it?

8 MR. WITTMAYER: -- just do it.

9 MR. CONINE: Okay.

10 MS. BOSTON: If I could clarify one other
11 comment you made. You had mentioned razing to the ground
12 and starting over. The only at-risk deals we're allowing
13 that on are the HOPE VI or PHA related ones. On the
14 others, if they're totally going to go down to the ground
15 and then rebuild, we wouldn't consider that at-risk. It
16 would just considered new construction.

17 MR. CONINE: We'll talk about that at another
18 time.

19 MS. BOSTON: Okay.

20 MS. CARRINGTON: Do you want to be in the
21 working group for '05?

22 MR. CONINE: No. I've got a feeling I'll be
23 around anyway.

24 MR. BOGANY: Ms. Carrington?

1 MS. CARRINGTON: Yes, sir?

2 MR. BOGANY: The gentleman who talked about the
3 razing in the rural areas, does this do what you want
4 done?

5 MR. PALMER: Yes, to add to the HOPE VI
6 definition an additional use of capital grant funds would
7 allow funding in rural areas, for the secondary cities
8 [inaudible].

9 MR. CONINE: Okay.

10 MR. BOGANY: All right. Brooke, and we can do
11 that based on what Mr. Wittmayer has said?

12 MS. BOSTON: Yes.

13 MR. BOGANY: That's great.

14 MR. CONINE: Is there a motion?

15 MR. BOGANY: I'd like to move that we --

16 MR. CONINE: Adopt the change?

17 MR. BOGANY: -- adopt the change.

18 MR. CONINE: Thank you.

19 MR. GONZALEZ: Second.

20 MR. SALINAS: Second.

21 MR. CONINE: There's a second, both Vidal and
22 the Mayor. All those in favor, signify by saying aye.

23 (A chorus of ayes.)

24 MR. CONINE: Any opposed?

1 (No response.)

2 MR. CONINE: So moved.

3 MR. BOGANY: I have one more and I'll be
4 through. In regard to in the QAP it talked about that a
5 developer, if he decides that -- it says something about
6 partnering monies with non-profits, and that if a project
7 decided that they didn't want to partner with a
8 non-profit, and they wanted to put the money in to the
9 deal themselves, and be able to make this deal work, it
10 excludes them from putting -- they have to get some
11 non-profit to work with them, and if they decided they
12 wanted to put the money in, because when you do the
13 financing it's short at some point -- do you know what I'm
14 talking about in the QAP, the 1.1?

15 MS. BOSTON: Are you talking about the credit
16 cap?

17 MR. BOGANY: Right.

18 MS. BOSTON: Okay. I think the -- and maybe
19 I'm misunderstanding -- I mean, the proposal that we have
20 in there right now that's new is that on the credit cap
21 limit, if you're doing joint venture partnering in rural
22 areas, you would actually prorate the credit cap for the
23 people involved in that deal. It's basically a way to not
24 penalize a developer who maybe wouldn't gone into a joint

1 venture.

2 MR. CONINE: I think he's asking a different
3 question.

4 MS. BOSTON: Okay.

5 MR. BOGANY: No, I'm more talking about the
6 debt service.

7 MR. CONINE: You go to the federal HOME loan
8 banks, get AHAP money, stick it in the project, you get
9 points, and it's a wonderful -- Gouris is happy and the
10 deal works. If the same developer wanted to put those
11 same dollars in, and didn't go to the federal HOME loan
12 bank, but took it out of his own back pocket --

13 MS. BOSTON: No, it has to be from us.

14 MR. CONINE: -- you can't do that. So it's
15 kind of an unequal playing field there, I think is what
16 Mr. Bogany is saying.

17 MS. CARRINGTON: So is it the leveraging
18 points, Mr. Bogany --

19 MR. BOGANY: Right.

20 MS. CARRINGTON: -- that you're addressing?

21 MR. BOGANY: Right.

22 MS. CARRINGTON: Okay.

23 MR. BOGANY: I'm sorry. That's not how I said
24 it, but, yes, that's what I was talking about.

1 MS. BOSTON: Yes, okay. So the question being,
2 it sounds like, that you are maybe suggesting that you
3 would be able to have the applicant just subsidize the
4 leveraging without actually having to have the funds from
5 another entity?

6 MR. CONINE: Yes.

7 MR. BOGANY: That's what I -- right, exactly.

8 MS. BOSTON: The genesis of that section, as
9 well as the loan targeting, was crafted from the 2004 QAP
10 working group, and they put a lot of time into it. There
11 had been a lot of healthy debate about how it had gone
12 last year and that it was too flexible. I mean, I think
13 it's a good idea. I think what they would do is just have
14 more -- you know, they'd take it off their developer fee.
15 I don't know that that was the idea.

16 MS. CARRINGTON: I think, perhaps, part of the
17 idea is that by leveraging additional sources of funding
18 in these developments that what you're looking to do is
19 bring in as many different financing sources as possible,
20 rather than relying solely on the tax credits to provide
21 the equity for the developments.

22 One of the things that we certainly received a
23 lot of comment on, in the last QAP, was that it could be a
24 small amount of money that came from a third party,

1 another source. It could be \$2,000 or \$3,000 and that
2 that basically was kind of a meaningless amount of money
3 to be able to get leveraging points.

4 So I think that from the Department's
5 standpoint, we look at combining a variety of financing
6 sources on these developments as a positive thing.
7 Perhaps, it allows the developer to target to lower
8 incomes and so that's sort of been the thought as we've
9 worked on this section of the QAP.

10 MS. BOSTON: And also, our state legislation,
11 2306, Section 6710, does require us to give points for
12 leveraging for having funds from other sources, and it
13 kind of specifies they need to be other sources.

14 MR. BOGANY: Okay.

15 MS. BOSTON: I think to make sure that we're
16 not going beyond our bounds there, that we would want to
17 be careful.

18 MR. BOGANY: Okay.

19 MR. CONINE: Anybody else?

20 (No response.)

21 MR. CONINE: I guess it's up to me. Several
22 things, let's talk about Ms. McIver's letter, since I've
23 got it right up here on top, the technical correction on
24 the 76 units. Can we go ahead? Do you guys agree to

1 that?

2 MS. BOSTON: Yes.

3 MR. CONINE: The -- there's obviously some
4 confusing on the one-mile issue. Can you help clarify
5 that to where a dummy like me can understand it?

6 MS. BOSTON: It's confusing to everybody.
7 There's actually two one-mile rules. There's a one-mile
8 rule for three years. That's that you can't locate your
9 proposed development within a mile of another development
10 that's been funded in the past three years.

11 One of the comments had been about the term
12 application round and how that related to the bond
13 applications, and that there's comment that we shouldn't
14 be using when the volume one is submitted. I'd like to
15 point out that the term application round is a 9 percent
16 definition that only ties to the competitive ceiling and
17 there was no definition or parameter for how that even
18 tied in with the 4 percent round, because that needs to
19 apply to both local and state issuers, the first time we
20 have involvement on the local issuer side is volume one.
21 So that's where we were coming from with that
22 clarification.

23 That one-mile rule has certain exceptions that
24 can be made. The other one mile rule is within the same

1 year, we can't fund more than one development within a
2 mile of any other. That one has a little bit different
3 set of exceptions.

4 They both are taken almost verbatim from
5 legislation. There's not very much room for us to alter
6 anything.

7 MR. CONINE: So you don't think the Department
8 was going to have any trouble figuring out when the cutoff
9 is, and where the cutoff is, and all?

10 MS. BOSTON: Uh-huh.

11 MR. CONINE: You're pretty clear on all that?

12 MS. BOSTON: Yes.

13 MR. CONINE: It sounds like we still need to
14 communicate to the development community a little more
15 about the difference in the bond allocations and the 9
16 percents and so forth. I'm sure you'll do that.

17 MS. BOSTON: Duly noted.

18 MR. CONINE: Threshold amenities, her 50 point
19 minimum score, can you address that?

20 MS. BOSTON: Sure. It may have bene my
21 misunderstanding, but having a threshold in scoring, my
22 perception of that was if you want the points, you would
23 have to meet the threshold, and then you would get points
24 about and beyond that, but if you didn't want the points,

1 then you wouldn't have to do any of it. We weren't okay
2 with that. We think there should be a certain category of
3 amenities that everybody has to do some of, as part of the
4 threshold, that's not tied to points in any way.

5 If indeed the suggestion is that the language
6 in the selection criteria actually is a true threshold and
7 everybody has to do it, I probably want to kind of
8 wordsmith how it's referred to somewhere, so that everyone
9 who reads the QAP is very clear that it's threshold and
10 not selection, but I mean, we would be open-minded to
11 doing that. We can do that. I just want to emphasize,
12 from our side, that it's going to be written in a way that
13 it's definitely threshold and it's not just if you want
14 the points.

15 MR. CONINE: Do you want to try to -- do you
16 want the authority to do that language later? Or do you
17 want to try to do it now and bring it back to us?

18 MS. BOSTON: We can try to do it now and bring
19 it back.

20 MR. CONINE: Okay. Put that on your to-do
21 list.

22 MS. CARRINGTON: May I ask a question?

23 MR. CONINE: You may.

24 MS. CARRINGTON: Would it be staff's

1 recommendation, Brooke, to make any changes to this
2 section to the QAP, on threshold amenities?

3 MS. BOSTON: I'd like to look at it for a
4 minute.

5 MS. CARRINGTON: Okay.

6 MR. CONINE: All right.

7 MS. CARRINGTON: Sounds like a lawyer.

8 MR. CONINE: The community support from state
9 elected officials, again, kind of refresh our memory now.
10 In the current, you've got pluses and minuses and a total
11 maximum of each, I guess, within that bracket --

12 MS. BOSTON: Correct.

13 MR. CONINE: -- which are currently six points?

14 MS. BOSTON: Right.

15 MR. CONINE: The proposal is to add the mayor
16 and county judge or county commissioners to that, but
17 because of the rural situation, maybe only limit it to
18 nine points instead of twelve. Is that what I understood
19 her to say?

20 MS. BOSTON: (No response.)

21 MR. CONINE: Or create a differentiation of
22 both, to have a twelve point deal for urban areas and a
23 nine point deal for a rural deal? Is that what I heard
24 her say?

1 MS. BOSTON: My understanding is that she was
2 just suggesting that a total of nine and you could mix and
3 match them from the different categories of letters,
4 however they were able to get them.

5 MR. CONINE: Okay. All right. What would your
6 feeling be about that, assuming we could get by the
7 legality of this issue?

8 MS. BOSTON: You know, it's been a highly
9 discussed issue. I mean, we did points for local
10 officials for the past few years and we could do again.

11 MS. CARRINGTON: I think so.

12 MS. BOSTON: Was that sensitively said?

13 MS. CARRINGTON: If so instructed.

14 MR. CONINE: Do you want us to seek the advice
15 and counsel of the Attorney General's office? Or do you
16 think we should just bear out on our own here, based on
17 Mr. Mazur's testimony?

18 MR. WITTMAYER: The most conservative approach
19 is the default of the language, just the flat, straight
20 language of the statute. The second most conservative
21 approach would be to request an opinion of the AG. Also,
22 a third option would be just for the board to make a
23 decision about whether or not to limit it to state or also
24 include local officials.

1 MR. CONINE: What's the board's pleasure?

2 MS. CARRINGTON: May I make one comment?

3 MR. CONINE: You may.

4 MS. CARRINGTON: During the legislative
5 session, there certainly was discussion, in I believe it
6 was the Urban Affairs Committee hearings, about the number
7 of points that were eligible -- this was the prior QAP --
8 number of points that were eligible for state elected
9 officials and the number of points that were eligible for
10 local elected officials. It was very clear, at least with
11 the state elected officials who sat on Urban Affairs, that
12 they felt like they ought to have more points than the
13 local elected officials. I don't know if that goes to --

14 MR. CONINE: I'd like to referee that dialogue.

15 MS. CARRINGTON: I can't tell you that that was
16 legislative intent, but it certainly was a discussion that
17 they had. So I think as we look to determining the
18 appropriate number of points on these, that based on at
19 least my conversations in those meetings, perhaps what you
20 will see from staff is more points for state elected
21 officials and fewer for local elected officials.

22 MR. CONINE: Well, that would be different from
23 Ms. McIver's proposal, which does three, three, and three.
24 You're suggesting, maybe, six and three.

1 MS. CARRINGTON: I think that that goes more
2 accurately to the discussions that were had during the
3 legislative session.

4 MR. SALINAS: I would like to recommend that we
5 go and take the advice of Ms. McIver and that we get
6 the --

7 MR. CONINE: Attorney General.

8 MR. SALINAS: -- Attorney General's opinion on
9 it, and we go ahead. I don't think that the state
10 representative from Katy, Texas meant that we did not get
11 a letter of support from the local mayor, or the local
12 county commissioners, or council. I think he agreed with
13 us and I don't think he meant any other way, but I think
14 it's very important that the communities, mayor and
15 commissioners, get involved.

16 MR. CONINE: Well, actually the way Ms. McIver
17 has this written, Brooke, it actually maxes out at six for
18 the state and three for the others. So it would work in
19 this particular -- it would work.

20 MS. BOSTON: Uh-huh.

21 MR. SALINAS: Ms. McIver's recommendation
22 should be implemented and get the recommendation.

23 MR. CONINE: Okay. All right.

24 MS. BOSTON: Because we have to have this filed

1 with the Texas Register on Monday, are you suggesting that
2 we would put this in, and then while it's being reviewed
3 by the governor's office, we would be requesting the
4 opinion?

5 MR. SALINAS: Yes.

6 MR. CONINE: Yes. I guess I would add the
7 language subject to

8 MR. SALINAS: Subject to.

9 MR. CONINE: -- the mayor and county judge
10 three points would be subject to an Attorney General's
11 opinion letter.

12 MS. BOSTON: Okay.

13 MR. CONINE: That covers all of our bases, I
14 think. Can I get a motion on those items on Ms. McIver's?

15 MR. SALINAS: I move for the recommendation.

16 MR. CONINE: We'll do it as a block motion.

17 MR. SALINAS: I move for the recommendation.

18 MS. BOSTON: Only the ones you discussed,
19 though, right, not everything?

20 MR. CONINE: Yes, so far, I'm not finished, but
21 just so far on this letter, yes.

22 MR. GONZALEZ: Second.

23 MR. CONINE: There's a motion and a second by
24 Mr. Gonzalez. Any further discussion?

1 (No response.)

2 MR. CONINE: All those in favor, signify by
3 saying aye.

4 (A chorus of ayes.)

5 MR. CONINE: Okay. The HUB points, let's talk
6 about that for just a minute. We couldn't ever get to
7 where we were comfortable with the language so we're just
8 reverting back to '03, which I'm not sure, you know, I
9 necessarily agree with.

10 I think, you know, in the interest of levelling
11 the playing field and creating equal opportunity for all,
12 I would suggest that maybe the HUB should be used as maybe
13 a -- we all want to make sure that historically
14 underutilized businesses have access, but we don't want to
15 get into a case of rewarding someone just for, you know,
16 either being a minority or a gender that may need some
17 preference here. I think there's a lot of court cases
18 floating around that allude to that fact.

19 I would like to see us take a stance that, say,
20 we encourage historically underutilized businesses, and
21 that we also use it as one of our tie-breakers, in the
22 tie-breaker consideration, because I know that occurs a
23 lot, but, to me, three points -- in a lot of these cases,
24 these point scores come down to one or two points, and

1 three points is, relatively, a lot of points. I think
2 using it as a tie-breaker and encouraging participation
3 would be, in my mind, a better way to do it.

4 Do you have a comment?

5 MR. BOGANY: Yes, I have a comment.

6 MR. CONINE: All right.

7 MR. BOGANY: You know, I personally think they
8 should be in there, Kent, and the reason for it is that
9 you can encourage things all day long, but we're not
10 living in, in my opinion, a level playing field. I think
11 you've got to have it in here.

12 I looked at the projects we did last year. HUB
13 business came in at about 14 million of the 38 that we
14 had, 14.5. We had, of that group, you had four minority
15 groups that were actually minorities that got funds. Now,
16 you had a whole lot of women that got funds that were
17 included in that group. So the question is whether or not
18 women should be included in the HUB, but my thing is that
19 it's probably not just the way it needs to be, but I think
20 we ought to at least leave it in there until we can
21 perfect it, or get it better than what it is.

22 I only saw one woman minority that got business
23 from us in that end. I would think that the four that got
24 an opportunity wouldn't have gotten an opportunity if this

1 had not been in place to get that deal done. You know,
2 I've seen those letters. I've got somebody out there that
3 sent me some information on court cases and things of that
4 nature. All my feeling is that when things are equal, it
5 gets past personalities, it gets past people having
6 opportunities, and what we ought to be about is giving
7 opportunities to these people to be able to get into these
8 programs and use them.

9 Women are, you know, it was put in there for
10 women to be a part of that group. I just think to just
11 discount the four people who may not have gotten them at
12 all without the points, I would have a problem in
13 considering that 24 million went to the regular developers
14 and only 14 went to this HUB group. Of that 14, only four
15 people -- and if you look at the money that those four
16 got, it was less than \$5 million of people who got funds.

17 That meant that the majority of the community got the
18 funds that were there, but we opened the door for four
19 people to get a shot.

20 I think we need to keep that door open, until
21 we can -- it's not perfect, but I think we need to work on
22 it and tweak it until we get it better. Just as this QAP
23 is not perfect, but it's a start and it's us to tweak it
24 and get it better until we get until everybody becomes

1 happy with it. I would like to keep it in there until we
2 can get better language to tweak it down, but I'm just
3 looking at the numbers and it's not that many people
4 getting it.

5 MR. CONINE: Okay. Why is that?

6 MS. BOSTON: People request to the points and
7 they have to have a HUB certificate from -- it's not the
8 General Services Commission any more, they have a new
9 name. I don't know.

10 MS. CARRINGTON: Building and Procurement.

11 MS. BOSTON: Thank you. So basically, people,
12 if they have the right documentation, and they submit it,
13 and they self-score, and we can confirm the documentation
14 is correct, they get the point. So if they don't claim
15 them, you know, we can't make them try and go for it if
16 they don't want to.

17 MR. SALINAS: Right. It's just like taking the
18 horse to water hole and then you cannot make him drink
19 water.

20 MR. BOGANY: Well, and I've also heard, with
21 some letters that have been sent to me, that some people
22 are abusing they system, per se going to get a woman, or
23 per se going to get a minority, to put in, just to be able
24 to get those points to get those things done. I'm just

1 wondering, should we kill it with a sledge hammer because
2 of that? Or, you know, tweak it and at least keep it in
3 place until we get it where it's just about right, to get
4 this thing done?

5 I mean, we're not talking about less than \$5
6 million of all of the 38 that we spent went to actually a
7 minority. And then, when you add the women in there, it's
8 still 24 to 14.

9 MR. SALINAS: So what is the solution for it?

10 MS. CARRINGTON: May I, Mr. Chair?

11 MR. CONINE: Your turn.

12 MS. CARRINGTON: Mayor, to address your
13 comment, there's really two opportunities for HUB
14 participation in our tax credit program. The first on the
15 points is for an applicant that has a historically
16 underutilized business as part of that development team,
17 as part of the ownership entity.

18 The other thing that is in our qualified
19 allocation plan is that we ask developers to certify that
20 they will attempt -- and again, it's best efforts, Mr.
21 Bogany -- but they will attempt to utilize at least 30
22 percent of the fees of the contracting would go to
23 minority contractors, appraisal firms, other professionals
24 that they would be using in the development of their tax

1 credit transaction. So this is not really the only place.

2 This is for the ownership part of the development.

3 MR. BOGANY: All I'm looking for is an
4 opportunity. I think once more minorities get an
5 opportunity, then we can get away from it because then
6 they're a pool, but I hate to see a developer say, you
7 know, I just can't find a minority appraiser to do this
8 project, you know. So I'm going to go over here and
9 use -- you use people who are your friends, who you've
10 built relationships with, who you know is going to do the
11 job right, not someone that you don't know.

12 I think until we eliminate that we at least
13 ought to have the doors open for minorities to be able to
14 use these projects and get involved. I think it will
15 eventually go away, but we're not there yet. I'm sorry.
16 We just aren't here. I think we really need to give them
17 an opportunity. I'm not saying give somebody who's
18 unqualified.

19 I'm saying give an opportunity to those that
20 are qualified, and you have to go out and seek, but in
21 real world, I'm going to use my friend Clark Kent because
22 I know he builds a good house, and yes, I'd like to use
23 this Mayor Salinas, but, you know, I know Kent, and I know
24 he's going to do the job because I've built a relationship

1 with him. I think that personal, that human, element that
2 we can't eliminate, is there, and unless you make an
3 opportunity for these people to at least get in the door,
4 it's not going to happen. It really isn't, because the
5 whole life business is built on relationships, you know,
6 and I think you have to give an opportunity to those
7 people. We only had four. Come on, you know, it's just
8 four people.

9 MR. SALINAS: Why is it only four? You know,
10 we don't have any problem with minorities in the Valley.
11 I mean, we don't have -- I mean, Mike's here and he can
12 tell you, that's not an issue for us over there. I don't
13 know if it's an issue in Houston or anywhere else, but --

14 MR. CONINE: Okay.

15 MR. SALINAS: -- it's not an issue for us.

16 MR. CONINE: We'll put it in the '05 working
17 group and talk about it there.

18 MR. BOGANY: Until we tweak it and get it
19 right.

20 MR. CONINE: All right. Good.

21 MR. BOGANY: Because it ain't right yet, but
22 let's work with it.

23 MR. CONINE: Okay. Non-profits is on my list.
24 To qualify as a non-profit, I know we went through this

1 the first rendition, or having 51 percent of the developer
2 fee. Now, that's out, but we also know that there's folks
3 out there that form a non-profit just to get the points.
4 So that was what we were going after originally. So tell
5 me, now, how you qualify as a
6 non-profit, from your perspective.

7 MS. BOSTON: There aren't any non-profit
8 points, as a point of clarification. There's the
9 setaside.

10 MR. CONINE: The setaside, excuse me.

11 MS. BOSTON: Right. It's 10 percent federal
12 setaside and basically it's that they need to have a
13 controlling interest, is the way we've proposed it. And
14 so, the non-profit entity would need to have a controlling
15 interest in the development. It wouldn't be that they
16 would have to be the sole entity. They could do a joint
17 venture as long as the for-profit had less than 51
18 percent.

19 MR. CONINE: If we were to say that the non-
20 profit needed to be in existence for some period of time,
21 like five years, to meet that setaside qualification,
22 would that not prevent some of the problems that we
23 perceive may be happening out there?

24 MS. BOSTON: I think because that would

1 generate a lot of public comment from non-profits, I would
2 be hesitant to make that type of a change, for a rule that
3 there would be no way to get public comments on that
4 thought.

5 MR. CONINE: Okay.

6 MS. BOSTON: I mean, to me, that seems like a
7 pretty big change, a great one for the 2005 working group.

8 MR. CONINE: Another one of those issues, okay.
9 The scoring of letters seemed to be an issue for some
10 folks. Can you kind of brief the board on where we are
11 there?

12 MS. BOSTON: I can try. I'm assuming that
13 you're talking about the neighborhood organization
14 letters.

15 MR. CONINE: Right.

16 MS. BOSTON: The way it's drafted right now is
17 that the letters would come in. Once we've verified that
18 it indeed have the development in the neighborhood
19 organization boundaries, which is required under the
20 legislation, that they would be evaluated by the executive
21 board review advisory committee and that group would
22 determine not only whether the letter needed points at
23 all, but would also determine the number of points.

24 MR. CONINE: So is there a points structure

1 proposed in the QAP? I'm sorry. I don't remember seeing
2 it.

3 MS. BOSTON: There is not in the QAP.

4 MR. CONINE: So why are we making that
5 different from the other points that we award, for the up-
6 front definitive knowledge of a certain range to a max
7 like we do in other issues.

8 MS. BOSTON: There is a range, up to a max.
9 It's positive to negative twelve.

10 MS. CARRINGTON: Yes, positive twelve or
11 negative twelve.

12 MR. CONINE: For letters?

13 MS. BOSTON: Yes --

14 MS. CARRINGTON: Yes.

15 MS. BOSTON: -- but where someone falls in the
16 range, like you could -- the way we've discussed it right
17 now is you could, in theory, have one development that
18 maybe got three opposition letters, and that might be
19 worth three points, and you could have another deal that
20 got three opposition letters, and that's actually worth
21 that they got eight points.

22 MR. CONINE: So when the EARAC scores it a
23 certain way, and the developer disagrees, then he's going
24 to file an appeal, and we're going to get to hear it.

1 MS. CARRINGTON: Correct.

2 MR. CONINE: Is that the way it's supposed to
3 work?

4 MS. CARRINGTON: Correct. I think it's
5 important to also note that the Department, of course,
6 will take letters of support or opposition from anyone who
7 wants to submit those to the Department, but for scoring
8 purposes, as Chris has said earlier, the letters that the
9 Department is mandated to score are those letters from
10 neighborhood organizations whose boundaries encompass the
11 area that the development is going to be located in.

12 MR. CONINE: Which matched the --

13 MS. CARRINGTON: Yes.

14 MR. CONINE: -- the legislative language?

15 MS. CARRINGTON: Yes.

16 MR. CONINE: Thank you.

17 MS. CARRINGTON: So we anticipate receiving
18 letters, both positive and negative, that will not be
19 scored, but then our legislation --

20 MR. CONINE: So the question is, though,
21 whether the Kerrville Quilting Society is going to have a
22 boundary, it's going to be located, and I guess your
23 assumption would be if your project is in the City of
24 Kerrville, and Kerrville has a quilting society located in

1 the city, somehow, some way, that would meet that
2 requirement?

3 MR. WITTMAYER: If the quilting society comes
4 within the definition of neighborhood organization. We
5 have attempted somewhat of a definition there, to be that
6 it has a primary purpose serving some welfare interest of
7 the neighborhood. It seems to --

8 MR. CONINE: Well, that's pretty broad. I
9 would say the quilting society covers that.

10 MR. WITTMAYER: Uh --

11 MR. CONINE: The liberal arts in me, what
12 little I have.

13 MR. WITTMAYER: It's going to be difficult to
14 define neighborhood organization.

15 MR. CONINE: Well, should we try to struggle
16 with that today? Or do we just leave it open-ended?

17 MR. WITTMAYER: Uh --

18 MR. CONINE: What do you guys think?

19 MR. BOGANY: I'd like to know what staff
20 thinks.

21 MR. CONINE: Okay.

22 MR. WITTMAYER: My view is that it's going to
23 be something that we have to learn about as we get letters
24 in and when we get letters of input in, we'll be able to

1 look consistently across all the letters that we get, and
2 then make our best judgment about, well, what's a
3 neighborhood organization? What's it's nexus to this
4 neighborhood? What is its purpose? And then, we exercise
5 our best judgment about what is within that definition and
6 what is outside of that language.

7 MR. BOGANY: Is it Senate Bill 264 saying we
8 have to score these letters?

9 MR. WITTMAYER: Yes.

10 MS. CARRINGTON: Yes.

11 MR. BOGANY: So we're just following Senate
12 Bill 264.

13 MR. WITTMAYER: Correct.

14 MS. CARRINGTON: Yes, sir, we are.

15 MR. BOGANY: Okay. So if the neighborhood has
16 a problem, they really should go to the author of Senate
17 Bill 264?

18 MS. BOSTON: To clarify, where I think, on the
19 half --

20 MR. BOGANY: Okay. What?

21 MS. BOSTON: -- I think the difference is how
22 we're scoring them is up for our discretion, you all's
23 discretion. And then --

24 MR. BOGANY: Okay.

1 MS. CARRINGTON: Yes.

2 MR. BOGANY: Well, their issue is whether or
3 not the letter goes to a DA if somebody writes a letter --

4 MS. CARRINGTON: No.

5 MR. SALINAS: No.

6 MS. CARRINGTON: Go ahead.

7 MR. CONINE: No, that was a different statute
8 that said --

9 MR. BOGANY: Okay.

10 MR. CONINE: -- if it contains something that
11 was blatantly false --

12 MR. BOGANY: Okay.

13 MR. CONINE: -- then the punitive, and it could
14 come from either the public or from the developer, okay?

15 MR. SALINAS: This is why it's very important
16 that the city council have some supporting points,
17 because, if not, the neighborhoods will be supporting all
18 our projects.

19 MR. CONINE: I'm comfortable with the language
20 in the QAP, because it does lay out the potential worst
21 effect to both parties, just to make sure everybody's on
22 notice --

23 MR. BOGANY: Okay.

24 MR. CONINE: -- and try to create, again, some

1 balance, between two groups that are not statutory, legal
2 entities. A developer is not and a neighborhood group is
3 really not. So we're trying to create a level playing
4 field there, as least in my mind, from the language that's
5 in the QAP. Let's try it one year and see how it works.

6 MR. BOGANY: Thank you.

7 MR. CONINE: Um --

8 VOICE: Hold on just a minute.

9 MR. CONINE: Okay.

10 VOICE: She had a comment.

11 MS. McLAUGHLIN: I just wanted to mention that
12 to differentiate between the issue of the --

13 MS. CARRINGTON: The court reporter cannot get
14 you on the record if you don't come up to the mike.

15 MR. CONINE: She can't hear you. Come on up
16 here.

17 MS. McLAUGHLIN: There was an issue about
18 whether or not misstatements would be subjected to some
19 oversight in terms of whether they should be. That's one
20 issue.

21 The other issue is did the QAP require the
22 Department to score letters based upon merit? In the
23 reading of that section that says quantifiable community
24 participation does not specifically say that the letters

1 need to be scored. It says that community participation
2 needed to be effected through letters of opposition or
3 support, not necessarily the scoring.

4 That's a different issue than the one you were
5 addressing. Keep them apart. I understand where you're
6 coming from on the others, but make sure that you
7 understand that the legislation does not require scoring
8 of letters. It requires that community participation be
9 voiced through letters.

10 MR. CONINE: Yes.

11 MS. McLAUGHLIN: They don't necessarily have to
12 be scored.

13 MR. CONINE: Mr. Wittmayer?

14 MR. WITTMAYER: The legislative requirement is
15 that we give points based on quantifiable community
16 participation from neighborhood organizations. My
17 understanding of that language is that the input has to be
18 quantifiable. It seems to me a reasonable understanding
19 and a fair application of that language is that if you get
20 a letter in, you need to measure the content of the
21 letter.

22 You may get a letter that says, We don't want
23 this development here. We don't have any good reason, or
24 that no reason is articulated. That letter should be

1 evaluated based on the merits of its content.

2 We may get a letter in that has a very good
3 reason in opposition. That should receive, perhaps,
4 maximum minus twelve points because it has a quantifiable,
5 measurable, substantive content.

6 We may get a letter in that points out a
7 negative aspect to the development proposal, but it's not
8 such a negative effect that it would warrant a minus
9 twelve points. Perhaps, it would warrant a minus three
10 points. It seems to me important to judge the reasons for
11 the support in opposition of the letters, and not just
12 arbitrarily to weigh every letter with the same amount of
13 points.

14 MR. CONINE: What you're saying is we're going
15 to give the project a score.

16 MR. WITTMAYER: Right.

17 MR. CONINE: It's going to be a collective
18 effect of all letters that come in, not individually
19 scoring each letter?

20 MR. WITTMAYER: Each letter will be evaluated
21 individually.

22 MR. CONINE: But we will have a collective
23 points for the project --

24 MR. WITTMAYER: Yes.

1 MR. CONINE: -- based on all those letters, not
2 individual letters?

3 MR. WITTMAYER: Correct.

4 MR. CONINE: Right.

5 MR. WITTMAYER: These will be the letters from
6 neighborhood organizations whose boundaries include the
7 development site.

8 MR. CONINE: I'm comfortable with that
9 position, I think. Are you guys comfortable?

10 VOICE: Yes, ma'am.

11 MR. CONINE: Okay. Let's go to ineligible
12 building types, one of my favorite subjects.

13 MS. CARRINGTON: We knew that was going to come
14 up.

15 MR. CONINE: Refresh my memory where we started
16 with this issue, because it's not in my change/comments
17 here. Was it 60-50-30?

18 MS. BOSTON: Your original proposal was that
19 you couldn't have more than 60 of one bedroom, 50 of two
20 bedroom, and 30 of three bedroom, and it had a lot of
21 public comment.

22 MR. CONINE: Yes, it had a lot of public
23 comment, you know. I still, as I stated earlier to Mr.
24 Bowling, have a passion in my heart for the single folks

1 out there. I also, based on my knowledge in the industry,
2 and feasibility, if you will, for projects all across the
3 country, believe that it's prudent to make sure that we
4 don't have an all three bedroom project, or an all two
5 bedroom project. In fact, two bedrooms are probably the
6 worst. If you look at the vacancy rates across the state
7 today, two bedrooms are probably the hardest to lease and
8 maintain, keep them leased.

9 I think the mixture of ones, twos, and threes,
10 providing an appropriate balance, based on market
11 conditions that are local and not statewide, creates --
12 this particular proposal would create the flexibility to
13 be able to do that. I guess I've kind of changed my
14 thought on kind of the numbers, based on a lot of the
15 dialogue.

16 And so, I would propose to change the
17 following. The 60 percent on one bedrooms would stay at
18 60. The two bedrooms would be at 45 percent. Three
19 bedrooms would be at 35 percent. That would mean if a guy
20 has a huge family, you know, orientation, and Bobby needs
21 to make sure he gets as many families as he can in there,
22 he could do 80 percent of the project in twos and threes,
23 but that would still leave 20 percent up for one bedrooms.

24 If you're in a downtown high rise, and you're

1 in the middle of Houston, and you want to make sure that
2 the young, single population, who are the working singles
3 that, again, whether their secretaries, or nurses, or
4 policemen, or firemen, or whatever the case may be, you
5 could have up to 60 percent one bedrooms, which I think
6 would be appropriate.

7 Those numbers in my mind, given the chance to
8 try it a year or so, let's just kind of see. I would
9 propose, let's see how it goes.

10 MR. BOGANY: So moved.

11 MR. SALINAS: Second.

12 MR. CONINE: A motion and a second. Any
13 further discussion?

14 (No response.)

15 MR. CONINE: All those in favor, signify by
16 saying aye.

17 (A chorus of ayes.)

18 MR. CONINE: So moved. The next one I had was
19 Mr. MacDonald mentioned the self-score and the punitive
20 damage on the ambiguity of some of these new regulations.

21 Can you come up with some language? Or what are your
22 thoughts about that?

23 MS. BOSTON: I actually would disagree with the
24 concept. I feel like for the past two years the pre-app

1 has been very successful. Last year, we had roughly 280
2 pre-applicants and based on other applicants being able to
3 look at the results, look at what they believed was a
4 pretty accurate score, they made business decisions about
5 not moving forward, and we only had 150 people move
6 forward.

7 I think that makes a big statement about the
8 number that changed and didn't move forward, based on a
9 score. I think if you tell people there's no penalty for
10 what score they put, I mean, they can all just totally
11 inflate their scores, and everyone won't be able to make a
12 business decision from pre-app to full app.

13 We already do have an exception in that
14 language, that excludes anything have to do with the
15 neighborhood organizations' support and opposition
16 letters. And so, that range of 24 points is not part of
17 their self-scoring. They wouldn't be penalized for that.

18 I don't see that many other things in the QAP
19 would be unclear as to what points people think they can
20 claim.

21 MR. CONINE: Okay. Any other comments on that
22 issue?

23 (No response.)

24 MR. CONINE: I think that's it for me. There

1 was one issue that you were going to get some language for
2 us on. What was that?

3 MS. BOSTON: It was the threshold amenities.

4 MS. CARRINGTON: The threshold.

5 MR. CONINE: Oh, the threshold.

6 MS. BOSTON: I'll go do my homework.

7 MR. CONINE: Why don't we move on the agenda
8 item to the next agenda item until you have enough time to
9 get that done, while we're still in session, and bring
10 that back to us? And then, we'll vote on the whole thing.

11 MS. BOSTON: Okay.

12 MR. CONINE: Okay. Thank you.

13 Ms. Carrington, the Final Housing Trust Fund
14 rules, please?

15 MS. CARRINGTON: Thank you, Mr. Chair. This is
16 tab 3(b) of your board book. Again, the board initially
17 reviewed the draft rules and approved them for comment for
18 Texas Register and for public comment on August 14. They
19 were published in the Texas Register and our comment
20 period was September 26 through October 10 on the Housing
21 Trust Fund rules. We did not receive very many comments
22 on the Trust Fund rules and, as is our pattern, we have
23 provided you the comments and the Department's response.

24 We worked, as you all know, to make our rules

1 for the Housing Trust Fund, for the Tax Credit program,
2 and for the HOME program, to make those rules as
3 consistent as possible. So as we have definitions across
4 our funding sources at the agency, then we are using
5 basically the same definitions, to the extent that we can,
6 and with the constraints of the funding area.

7 One of the things that we did include in the
8 Trust Fund rules, as we included in the HOME rules also,
9 is an opportunity to cure administrative deficiencies.
10 We've had that ability in the Tax Credit program for
11 several years and you all may remember last summer, you
12 heard several appeals in the HOME Program because there
13 was no ability to cure administrative deficiencies.

14 What the board is being asked to do this
15 morning is to repeal the Housing Trust Fund rules, which
16 are at Title X, Administrative Code, Chapter 51, and to
17 adopt the proposed new Housing Trust Fund rules, Title X,
18 Chapter 51.

19 MR. CONINE: Can I get a motion to repeal,
20 please?

21 MR. SALINAS: So moved.

22 MR. BOGANY: Second.

23 MR. CONINE: Motion and second to repeal. Any
24 further discussion?

1 MS. GRONECK: Who made the motion?

2 MR. CONINE: Motion made by the Mayor and
3 seconded by Mr. Bogany. Seeing none, all those in favor,
4 signify by saying aye.

5 (A chorus of ayes.)

6 MR. CONINE: All opposed?

7 (No response.)

8 MR. CONINE: Motion carries. Now, can we get a
9 motion to adopt the new Housing Trust Fund rules?

10 MR. SALINAS: So moved.

11 MR. CONINE: Motion by the Mayor.

12 MR. GONZALEZ: Second.

13 MR. CONINE: Second by Vidal. Any further
14 discussion?

15 (No response.)

16 MR. CONINE: Seeing none, all those in favor,
17 signify by saying aye.

18 (A chorus of ayes.)

19 MR. CONINE: Final real estate analysis rules,
20 Ms. Carrington?

21 MS. CARRINGTON: The next item is item 3(c) and
22 this is the underwriting, market analysis, appraisal,
23 environmental side assessment, and property condition
24 assessment rules and guidelines. In this case, what we

1 are looking to do is make an amendment to these rules.
2 You all will remember that last year we took our
3 underwriting rules out of the QAP and made them a separate
4 document, a separate set of rules. This followed the same
5 approval process, August 14 to the board, August 29 to
6 October 10, public comment period.

7 The substantive change that we have made, or
8 the additions that we have made, in these rules, we did
9 include language, per Senate Bill 264, for alternative
10 dispute resolution.

11 We also changed some language of changing
12 transitional housing to supportive housing. We've also
13 expanded a definition on our underwriting. So that if you
14 all remember back last summer, the Canal Street
15 development in Houston, needed, basically, some changes in
16 our underwriting to allow us to underwrite housing that
17 was supportive housing and didn't have the kind of typical
18 debt that you all are used to looking at.

19 And then, there is a whole new section. It's
20 section 1.36, which is property condition assessment rules
21 and guidelines. What this new section does is address the
22 procedure that the Department will use if we are looking a
23 at development for rehabilitation. That is, we will
24 require a poverty assessment report and that will give us

1 needed information as we do our underwriting.

2 We did receive some comment on this particular
3 item, with the comment being that it was excessive and
4 unnecessary. I did just sit on a National Council of
5 State Housing Agency's best practices for tax credits and
6 a property condition assessment requirement is one that
7 has been in NCSHA's best practices for several years.

8 So what staff is recommending is the option of
9 the amendment to Title X, Part 1, Chapter 1, Subchapter B.

10 MR. BOGANY: So moved.

11 MR. GONZALEZ: Second.

12 MR. CONINE: Motion and a second by Mr.
13 Gonzalez -- Mr. Bogany made the motion -- to approve the
14 changes in the federal real estate analysis rules. Any
15 discussion?

16 I have one question. I wasn't going to let you
17 get by without a question. On page 5, the demand
18 analysis, where comment was made to include household
19 turnover as a reliable source of market demand, and you've
20 decided not to do that, even though it says you need a lot
21 more public comment. Why would that be the case, I guess?

22 MS. CARRINGTON: I'd like to ask Mr. Gouris,
23 Tom Gouris, who's Director of Real Estate Analysis to
24 address the comment and the Department response. Tom,

1 this is where we felt like to not include it as part of
2 the capture rate, that we felt like that that change was
3 too substantive, hadn't gone out for public comment.
4 Turnover is a big component of how the market analysts
5 do --

6 MR. CONINE: Right, but the change was made
7 during the public comment period.

8 MS. CARRINGTON: Tom?

9 MR. GOURIS: But the comment was to exclude
10 turnover.

11 MS. CARRINGTON: Yes, it was to exclude it.
12 What we do --

13 MR. CONINE: Okay. It was still made in the
14 venue of a public forum, and brought to the staff, and I'm
15 curious why.

16 MR. GOURIS: Well, because [indiscernible] was
17 included originally based on a working group last year,
18 that came together and said this is something that we can
19 use, and discussions with market analysts over the course
20 of the last couple of years. This was one comment by one
21 market analyst who believes that turnover shouldn't be
22 used. I think, is that what you're referring to?

23 MS. CARRINGTON: Yes.

24 MR. GOURIS: And so, to make that one change,

1 in opposition of what all the other comment and the other
2 work that had been done, seemed like we would need to
3 bring that up again to the whole group.

4 MR. CONINE: So is it your intent to do that?

5 MR. GOURIS: It is not. The intent is to do
6 that in the coming year, yes, sir.

7 MR. CONINE: Right, in this coming year. Okay.

8 MR. BOGANY: I have a question.

9 MR. CONINE: Do you have another question?
10 Okay, Mr. Bogany?

11 MR. BOGANY: Mr. Gouris, in regards to utility
12 costs, did we make any adjustments there, on the
13 allowances?

14 MR. GOURIS: With?

15 MR. BOGANY: In regards to utilities.

16 MR. GOURIS: Utility allowances --

17 MR. BOGANY: Right.

18 MR. GOURIS: -- or the expense item?

19 MR. BOGANY: The expense item. With utilities
20 constantly rising --

21 MR. GOURIS: Right.

22 MR. BOGANY: -- and making an analysis of a
23 project, did we make any adjustments there, like we heard
24 over the few months, like, hey, you were off on your

1 utilities and your allowances. Did we make any changes
2 there?

3 MR. GOURIS: Well, not specifically, because we
4 have a pretty dynamic -- I think it's a pretty dynamic --
5 way of adjusting for that already.

6 MR. BOGANY: Okay. So we were making
7 adjustments --

8 MR. GOURIS: Yes, sir.

9 MR. BOGANY: -- as we go along?

10 MR. GOURIS: Yes, sir.

11 MR. BOGANY: Okay.

12 MR. CONINE: Any other discussion?

13 (No response.)

14 MR. CONINE: Seeing none, I call the question.

15 All in favor, signify by saying aye.

16 (A chorus of ayes.)

17 MR. CONINE: All opposed?

18 (No response.)

19 MR. CONINE: Motion carries. Ms. Carrington,
20 the final HOME rules?

21 He snuck by again.

22 MS. CARRINGTON: Oh, he has some more items on
23 the agenda later on.

24 Item 3(d), the final HOME program rules, the

1 board approved the draft of these rules on August 14.
2 Public comment period was the 29 to October 10, again, 13
3 consolidated public hearings around the state. Two
4 actions are requested of the board today, adoption of
5 repeal of Title X, Part 1, Chapter 53 and then, adoption
6 of an amendment to the chapter.

7 As you turn the memo to the next page, you will
8 notice that we have done this the same way we did the tax
9 credits, in that there are numbers after the comments. On
10 page 13 of 33, that gives you an opportunity to determine
11 who made that comment.

12 We've also provided four sections for your,
13 four Roman numerals, the substantive comments,
14 non-substantive, the general HOME comments not related
15 specifically, and then, staff administrative changes to
16 the HOME rules.

17 We did add alternative dispute resolution
18 language in our HOME rules. We do have -- and I know the
19 board will be pleased about this language -- on curing
20 administrative deficiencies in the HOME rules.

21 I believe that's it.

22 MR. CONINE: Can I get a motion to repeal,
23 please?

24 MR. SALINAS: Do we go ahead? I would like to

1 make a comment on the open application cycle for the HOME
2 rules --

3 MR. CONINE: Okay.

4 MS. CARRINGTON: Okay.

5 MR. SALINAS: -- especially on the colonia
6 contracts for these Congressional programs. Do we repeal
7 and then adopt the new? Would that be in order?

8 MS. CARRINGTON: You will want to include that
9 language as we do the adoption, yes, sir.

10 MR. SALINAS: The adoption, okay.

11 MS. CARRINGTON: Yes, sir.

12 MR. CONINE: Let's get the motion to repeal the
13 old one.

14 MR. SALINAS: Move approval.

15 MR. BOGANY: Second.

16 MR. CONINE: Motion by the Mayor, second by
17 Shad, to repeal the old ones. Any discussion?

18 (No response.)

19 MR. CONINE: Seeing none, all those in favor,
20 signify by saying aye.

21 (A chorus of ayes.)

22 MR. CONINE: All opposed?

23 (No response.)

24 MR. CONINE: Motion carries. Now, for the

1 adoption of the amendment.

2 MS. CARRINGTON: As we do that, I'd like to ask
3 Eric Pike to come on up, Director of Single Family
4 Production. So that Eric, we can be sure we accurately
5 reflect the board's --

6 MR. PIKE: Okay. Good morning.

7 MS. CARRINGTON: -- intentions.

8 MR. CONINE: Good morning.

9 MR. PIKE: We have one item I wanted to point
10 out that was listed in error in the rules, that we need to
11 have deleted. It is a state rule so it's not necessary
12 that it be put into our program rules. It's in Section
13 53.51, which in on page 16 of 33. It's, once again,
14 Section 53.51, 20, paragraph (c). It reads currently --
15 it talks about extremely low income families whose incomes
16 do not exceed 30 percent of the median family income
17 determined by HUD and published for the Department, with
18 adjustments for family size. That is correct. We would
19 like to keep that in there.

20 The passage that needs to be deleted is in
21 accordance with Rider 3 and published by the Department.
22 Those counties where the median family income is lower
23 than the state average median family income, "applicants
24 targeting households at or below 30 percent of the median

1 income of the area, may use the average state median
2 family income, based on number of persons in a household."

3 So I wanted to note that for the record.

4 MR. CONINE: You're striking that?

5 MS. CARRINGTON: Right.

6 MR. PIKE: Yes.

7 MR. CONINE: Waiting on the U.S. Congress to
8 respond appropriately, I guess.

9 MR. PIKE: Well, in conversations with our
10 legal department and other members of --

11 MR. CONINE: Yes.

12 MR. PIKE: -- executive staff of our agency,
13 this is a goal that we strive to meet from an agency
14 standpoint. It was felt that it was unnecessary that it
15 actually be in our HOME rules because it's a state rule.

16 MR. CONINE: Okay. There's any other technical
17 corrections?

18 MR. PIKE: That's all. Mayor Salinas is --

19 MR. CONINE: Mr. Mayor, you wanted?

20 MR. SALINAS: We wanted to see if we could
21 include the open application cycles, being that there were
22 no public comments on the public hearings on them. We'd
23 like to see if we can do that and have the -- regarding
24 setasides funding for the programs, a regional allocation

1 of formulas, the statute of the contract for deeds --

2 MR. CONINE: Right.

3 MR. SALINAS: -- especially in the El Paso area
4 and all those colonias.

5 MR. PIKE: My feeling is that that would enable
6 us to more efficiently award our funds. Instead of having
7 to have specific cycles, and go out and have to do
8 training numerous times a year, we could have an open
9 cycle for funds that aren't impacted by the regional
10 allocation formula. Those would be -- a NOFA would go
11 out. Those funds would be available first come, first
12 served, statewide.

13 MR. SALINAS: If it's okay, I'd like to move
14 that we go ahead and do that.

15 MR. CONINE: Let me make sure the staff
16 understands exactly what Mr. Salinas is requesting.

17 MS. CARRINGTON: Yes.

18 MR. CONINE: Everybody on board with that?

19 MS. CARRINGTON: Yes, sir, we do.

20 MR. CONINE: You think you can incorporate the
21 language sufficiently?

22 MR. PIKE: Yes.

23 MS. CARRINGTON: Yes.

24 MR. PIKE: Absolutely, anything that is not

1 impacted by the regional allocation formula.

2 MR. CONINE: Well, we have two amendments to
3 the adoption of the HOME program rules. Is there a
4 motion, Mr. Salinas?

5 MR. SALINAS: So moved.

6 MR. CONINE: There's a motion to amend from the
7 Mayor --

8 MR. BOGANY: Second.

9 MR. CONINE: -- a second from Shad, to make
10 these two amendments. Any other discussion?

11 (No response.)

12 MR. CONINE: Hearing none, all in favor,
13 signify by saying aye.

14 (A chorus of ayes.)

15 MR. CONINE: Now, we'll vote on the amended
16 adoption to the amendment of the HOME program rules. Do I
17 get a motion?

18 MR. SALINAS: So moved.

19 MR. BOGANY: Second.

20 MR. CONINE: Motion and a second by the Mayor
21 and Shad. All those in favor, signify by saying aye.

22 (A chorus of ayes.)

23 MR. CONINE: All opposed?

24 (No response.)

1 MR. CONINE: Motion carries.

2 MR. PIKE: Thank you.

3 MR. CONINE: Final integrated housing rule, Ms.
4 Carrington?

5 MS. CARRINGTON: Thank you. Item 3(e) in your
6 board book, the integrated housing policy has been a
7 policy of the Department since December 2002. It was a
8 policy that was approved by the board. What we are
9 proposing is that this become a rule. This was also part
10 of the public hearings that were held around the state and
11 the only change from the policy that the board adopted in
12 2002 and the rule that you're seeing today is that we
13 added a definition of assisted living facility. So we are
14 asking for the adoption of our integrated housing policy
15 as a rule.

16 MR. BOGANY: So moved.

17 MR. SALINAS: Second.

18 MR. CONINE: Motion by Mr. Bogany, seconded by
19 the Mayor. Any further discussion?

20 (No response.)

21 MR. CONINE: Seeing none, all those in favor,
22 signify by saying aye.

23 (A chorus of ayes.)

24 MR. CONINE: All opposed?

1 (No response.)

2 MR. CONINE: Motion carries. Final portfolio
3 management and compliance rules, Ms. Carrington?

4 MS. CARRINGTON: Thank you. Item 3(f), last
5 year, as I already mentioned, we took the underwriting
6 guidelines out of the QAP and made them a separate set of
7 rules, because as those underwriting guidelines apply to
8 all the programs within our agency, not just the Tax
9 Credit program, we have done the same thing this year with
10 our compliance monitoring rules. We lifted them out of
11 the QAP and we are proposing them as a separate rule.

12 The board did approve the draft on September
13 11, comment from September 26 to October 10, also
14 published in the Texas Register. On the second page of
15 your memorandum, we have laid out for the board any
16 comments that we received, which were not very many, and
17 we did also include the alternative dispute resolution
18 language in the compliance monitoring and asset management
19 rules. We are recommending adoption as Chapter 60.

20 MR. CONINE: Do I hear a motion?

21 MR. SALINAS: So moved.

22 MR. GONZALEZ: Second.

23 MR. CONINE: Motion and a second by Vidal.
24 Motion by the Mayor, second by Vidal. Any further

1 discussion?

2 (No response.)

3 MR. CONINE: Seeing none, all those in favor of
4 adopting the final integrated housing rule, signify by
5 saying aye.

6 (A chorus of ayes.)

7 MR. CONINE: All opposed?

8 (No response.)

9 MR. CONINE: Motion carries.

10 MS. CARRINGTON: Multifamily compliance rules.

11 MR. CONINE: Oh, did I -- excuse me?

12 MS. CARRINGTON: Yes, the compliance rules.

13 MR. CONINE: It was the last one. That was
14 the -- I'll rephrase the motion once again, or the call
15 for the vote. All those in favor for the final portfolio
16 management compliance rules, please signify by saying aye.

17 (A chorus of ayes.)

18 MR. CONINE: Motion carries. Okay. Now, the
19 final multifamily bond rules.

20 MS. CARRINGTON: I know this may strike fear in
21 the heart of the board, but I'm going to bring out general
22 counsel back up again, because, as you notice, there are
23 six items related to these final multifamily bond rules.
24 And so, I'm going to ask an attorney to walk through these

1 with you all.

2 MR. WITTMAYER: This is item 3(g). It's not
3 nearly as intimidating as it looks. It involves the
4 adoption of the repeal of three chapters which we
5 previously had for bond rules, that is, the Title X, Part
6 1, Chapter 33, Chapter 35, and Chapter 39. We are
7 recommending the board adopt the repeal of those three
8 chapters.

9 In its place, we recommend the board adopt at
10 Title X, Part 1, Chapter 33, the new multifamily housing
11 revenue bond rules. As you recall back in August, you
12 recall you adopted an emergency bond rule so we could get
13 on track for the application of the new scoring, under the
14 new legislative requirements. So we were putting in the
15 new Chapter 33 in place of the previously adopted
16 emergency rule. This requires that we approve the
17 withdrawal of our emergency repeal of Title X, Part 1,
18 Chapter 33, and also withdraw our emergency new rule of
19 Chapter 33.

20 Our adoption of new Chapter 33 in place of the
21 emergency rule is the same as the new emergency rule, with
22 two exceptions, based on the comment that we had. We
23 previously included as a discretionary factor for the
24 board, that it consider fair housing law. We had public

1 comment which indicated that we have a legal obligation to
2 affirmatively further fair housing and it was my opinion
3 that was included in the language of the fair housing law,
4 but to make that explicit, we recommend an amendment to
5 include the language on affirmatively furthering fair
6 housing.

7 Also, we recommend the addition of language on
8 alternative dispute resolution.

9 MR. CONINE: Okay.

10 MR. WITTMAYER: That is the staff's
11 recommendation.

12 MR. CONINE: Let me get a motion to withdraw
13 the emergency repeal Title X, Part 1, Chapter 33, to being
14 with.

15 MR. BOGANY: So moved.

16 MR. GONZALEZ: Second.

17 MR. CONINE: Motion by Mr. Bogany, second by
18 Mr. Gonzalez. Any further discussion?

19 (No response.)

20 MR. CONINE: Seeing none, all those in favor,
21 signify by saying aye.

22 (A chorus of ayes.)

23 MR. CONINE: Motion carries. Now, we're going
24 to adopt the repeal of Title X, Part 1, Chapter 33. Can I

1 get a motion?

2 MR. BOGANY: So moved.

3 MR. GONZALEZ: Second.

4 MR. CONINE: Motion and a second. Any further
5 discussion?

6 (No response.)

7 MR. CONINE: Seeing none, all those in favor,
8 signify by voting, Aye.

9 (A chorus of ayes.)

10 MR. CONINE: All opposed?

11 (No response.)

12 MR. CONINE: Motion carries. Now, we're going
13 to adopt the repeal of Title X, Part 1, Chapter 33 of the
14 taxable multifamily --

15 MR. WITTMAYER: Chapter 35, actually. You just
16 did Chapter 33.

17 MR. CONINE: Excuse me, Chapter 35, of the
18 taxable multifamily mortgage revenue bond program. Is
19 there a motion?

20 MR. GONZALEZ: So moved.

21 MR. CONINE: Is there a second?

22 MR. SALINAS: Second.

23 MR. CONINE: Motion by Mr. Gonzalez, second by
24 Mr. Salinas. All those in favor, signify by saying aye.

1 (A chorus of ayes.)

2 MR. CONINE: Motion carries. Now, we're going
3 to adopt the repeal of Title X, Part 1, Chapter 39. Is
4 there a motion?

5 MR. BOGANY: So moved.

6 MR. GONZALEZ: Second.

7 MR. CONINE: Motion by Mr. Bogany, second by
8 Mr. Gonzalez. All those in favor, signify by saying aye.

9 (A chorus of ayes.)

10 MR. CONINE: All opposed?

11 (No response.)

12 MR. CONINE: Motion carries. Now, we're going
13 to adopt the repeal of -- did I just do the repeal of 39
14 or not?

15 MR. WITTMAYER: Yes, you did.

16 MS. CARRINGTON: Yes, you did.

17 MR. CONINE: Okay. So now, we're going to
18 withdraw the emergency of the new Title X, Part 1, Chapter
19 33. Do I have a motion?

20 MR. GONZALEZ: Second.

21 MR. CONINE: I need a motion first.

22 MR. BOGANY: Motion.

23 MR. CONINE: Motion by Mr. Bogany, second by
24 Mr. Gonzalez. All those --

1 MR. WITTMAYER: Mr. Chair?

2 MR. CONINE: Yes.

3 MR. WITTMAYER: Mr. Chair, to clarify, that was
4 withdrawal of the emergency repeal of Chapter 33.

5 MR. BOGANY: Right.

6 MR. GONZALEZ: Yes.

7 MR. CONINE: Correct. That's what we're voting
8 on.

9 MR. WITTMAYER: Thank you.

10 MR. CONINE: All those in favor, signify by
11 saying aye.

12 (A chorus of ayes.)

13 MR. CONINE: All opposed?

14 (No response.)

15 MR. CONINE: Motion carries. Adoption of the
16 new Title X, Chapter 1, Part 33, do I hear a motion?

17 MR. BOGANY: So moved.

18 MR. GONZALEZ: Second.

19 MR. CONINE: There's a motion and a second.

20 All those in favor, signify by saying aye.

21 (A chorus of ayes.)

22 MR. CONINE: Motion carries. Did we do that
23 right, Counsel?

24 MR. WITTMAYER: Yes.

1 MR. CONINE: Or close to right, anyway?

2 MR. WITTMAYER: Exactly.

3 MR. CONINE: Okay.

4 MS. CARRINGTON: Thank you, Chris.

5 MR. CONINE: In light of the time constraints,
6 do you want me to move to something else?

7 MS. CARRINGTON: Yes, I think so.

8 MR. CONINE: I mean, 4 can wait, I know.

9 MS. CARRINGTON: Well, 4 can wait, yes.

10 MR. CONINE: That might.

11 MS. CARRINGTON: Oh, yes. Oh, okay. Five
12 won't take any time.

13 MR. CONINE: All right. Let's go to item 5.
14 Ms. Carrington?

15 MS. CARRINGTON: We are looking at doing some
16 reordering of the agenda, based on time, and so we will
17 get to the items that require action by the board today.
18 Item number 5 is the multifamily application and
19 submission procedures manual and it covers both the
20 Housing Tax Credit program and the Housing Trust Fund.

21 This is a draft only that you're being asked to
22 approved today and the reason being is that this manual
23 will track the qualified allocation plan. And so, since
24 there had been some changes that have been made to the QAP

1 today, then we're asking for your approval of this draft,
2 which will be substantially the same, but we will be
3 making changes based on the qualified allocation plan.

4 This is the document that goes to developers
5 who are applying and who are looking to do either Housing
6 Trust Fund or Housing Tax Credit developments. It's
7 basically their roadmap. It's their A to Z on how they
8 apply for funds through the Department.

9 MR. CONINE: Then, we'll be getting the final
10 version back to us?

11 MS. CARRINGTON: We certainly can bring the
12 final back to you, yes, sir.

13 MR. CONINE: Okay. Do I hear a motion to
14 approve the draft?

15 MR. BOGANY: So moved.

16 MR. GONZALEZ: Second.

17 MR. CONINE: Motion made by Mr. Bogany, second
18 by Mr. Gonzalez. Any further discussion?

19 (No response.)

20 MR. CONINE: Seeing none, all those in favor,
21 signify by saying aye.

22 (A chorus of ayes.)

23 MR. CONINE: Opposed?

24 (No response.)

1 MR. CONINE: Motion carries.

2 MS. CARRINGTON: We will have started doing
3 business, however, under the draft since the date for pre-
4 apps is December 2, and your next board meeting, I think,
5 is December 11.

6 MR. CONINE: That's okay. I think even the
7 developers in the room can understand that.

8 MS. CARRINGTON: Okay.

9 MR. CONINE: Let's see, 6. You want to go to
10 6?

11 MS. CARRINGTON: Yes, sir. We have three items
12 related to the administration of our Section 8 program.

13 MR. CONINE: Okay.

14 MS. CARRINGTON: The first item, 6(a)(1) is
15 approval of the Section 8 payment standard for our housing
16 choice vouchers. The Department administers about 2,200
17 Section 8 vouchers around the state, and we administer
18 those in three regions, and HUD requires us, on an annual
19 basis, to adopt a payment standard. We can go anywhere
20 from 90 percent to 110 percent, as a payment standard for
21 the administration of those vouchers.

22 What the board has in front of you all this
23 morning is to approve a resolution that will go to HUD,
24 adopting the payment standard. You have, behind this tab,

1 right before 6(a)(2), the payment standards for each of
2 the counties that Department administers the Section 8
3 program in. Our payment standard that we have identified
4 for all of the counties is either 100 percent of the fair
5 market rent or it's 110 percent of the fair market rent.

6 The other thing that we're asking for the board
7 to approve is to have the ability to have the ability to
8 go up to 120 percent in an area, if our clients cannot
9 find decent housing at 110 or 120 percent. Staff does
10 inform me that the executive director has had the ability,
11 over the last several years, to go up to 120 percent on
12 the payment standard, or requesting that to HUD. To this
13 date, we've never used it. We've had the ability since
14 1999, but we would like to have the ability to petition
15 HUD if the case so warranted.

16 MR. BOGANY: So moved.

17 MR. SALINAS: Second.

18 MR. CONINE: Motion by Mr. Bogany, seconded by
19 Mr. Salinas, for the resolution number 03-085, authorizing
20 the payment standard for Section 8 program standards. Any
21 further discussion?

22 (No response.)

23 MR. CONINE: Hearing none, all in favor,
24 signify by saying aye.

1 (A chorus of ayes.)

2 MR. CONINE: All opposed?

3 (No response.)

4 MR. CONINE: Motion carries.

5 MS. CARRINGTON: Okay. Thank you.

6 On the next item related to our Section 8
7 program, 6(a)(2), we administer these vouchers out of
8 three HUD offices, Dallas, Houston, and San Antonio. What
9 we are requesting with this item and this resolution is to
10 consolidate these three annual contribution contracts that
11 we have with HUD, each one is a separate ACC, and HUD has
12 suggested that we consolidate those ACC's into one annual
13 contributions contract.

14 This would give us more flexibility to move
15 those vouchers, not anywhere in the state we wanted to, it
16 would only be in the areas where we currently administer,
17 but it does give us that flexibility to go to some
18 underutilized areas with some of the -- take some vouchers
19 from the underutilized areas to the overutilized areas.
20 There is a resolution related to this action.

21 MR. BOGANY: So moved.

22 MR. GONZALEZ: Second.

23 MR. CONINE: Motion by Mr. Bogany, second by
24 Mr. Gonzalez, resolution number 03-086. Any discussion?

1 (No response.)

2 MR. CONINE: Seeing none, all those in favor,
3 signify by saying aye.

4 (A chorus of ayes.)

5 MR. CONINE: All opposed?

6 (No response.)

7 MR. CONINE: The motion carries.

8 MS. CARRINGTON: The last item related to the
9 administration of our Section 8 program, 6(a)(3), we have
10 been petition by the Marble Falls Housing Authority to
11 receive 30 vouchers to assist them in fully leasing some
12 units in the Marble Falls area. The San Antonio area is
13 an area that has an underutilization of Section 8
14 vouchers. And so, the process that HUD has told us that
15 we would need to go through is the board would approve of
16 the relinquishment of 30 vouchers.

17 These vouchers would actually be relinquished
18 to the Fort Worth HUD office. That office would then turn
19 around and allocate those vouchers to the Marble Falls
20 Housing Authority. That Housing Authority currently
21 administers a Section 8 program with several hundred
22 vouchers, and there is a need in the area, and staff is
23 recommending that we do relinquish these 30 vouchers to
24 the Fort Worth HUD office.

1 MR. CONINE: Isn't there a waiting list for
2 these things in every community that everybody has?

3 MS. CARRINGTON: Not in all of our communities.
4 We definitely have some that have an underutilization,
5 which is why on the last item, we want the ability to be
6 able to move them within our regions.

7 MR. CONINE: Hmm.

8 MR. SALINAS: I move for the approval of the
9 resolution.

10 MR. BOGANY: Second.

11 MR. CONINE: Motion by Mr. Salinas, seconded by
12 Mr. Bogany, approval of resolution 03-087. Any further
13 comments?

14 (No response.)

15 MR. CONINE: Hearing none, all those in favor,
16 signify by saying aye.

17 (A chorus of ayes.)

18 MR. CONINE: All opposed?

19 (No response.)

20 MR. CONINE: Motion carries. 6(b)(1), we have
21 some public comments, I believe --

22 MS. CARRINGTON: Yes, I think you do.

23 MR. CONINE: -- on the HOME program, the fiscal
24 year 2002-2003 multifamily HOME appeal for Bethel Senior

1 Housing.

2 MS. CARRINGTON: Right. Yes, sir.

3 MR. CONINE: Van Dyke Johnson is the first
4 public comment. It looks like we have several.

5 MR. JOHNSON: Dr. Griffin is going to be
6 speaking to this. So he can speak first, if you don't
7 mind.

8 MR. CONINE: Okay. Dr. Griffin, how are you
9 today?

10 DR. GRIFFIN: Fine.

11 MR. CONINE: Let me see if I can turn. Be
12 mindful that we have a three minute time limit.

13 DR. GRIFFIN: Thank you. I'm Marvin C.
14 Griffin.

15 MR. CONINE: Did you fill out a witness
16 affirmation form?

17 DR. GRIFFIN: Yes.

18 MR. CONINE: You did?

19 DR. GRIFFIN: Uh-huh.

20 MR. CONINE: Okay. Only thing I have to do --
21 there it is. I got it. Okay. Go ahead.

22 DR. GRIFFIN: I've come to speak in favor of
23 your approval of this project. I'm the president of the
24 East Austin Economic Development Corporation. It is

1 something that has emerged from our congregation because
2 of our concern for housing and particularly in areas where
3 it's needed most, rural areas.

4 We are in favor of this project and we want to
5 emphasize the fact that not only do we have a strong
6 history. We've been in existence 15 years and we've have
7 \$4 million in such project that we have handled. We have
8 the capacity to assure you of the support of this
9 particular project.

10 So we have not only the financial capacity, and
11 not only do we have a good history, but we have the
12 experience and we're primarily concerned in working with
13 partners in concretizing the Gospel.

14 MR. CONINE: Thank you. Any questions?

15 (No response.)

16 MR. CONINE: Next speaker would be who?

17 VOICE: [inaudible.]

18 MR. CONINE: Okay. Your name, please?

19 REV. HARRIS: Reverend Earl Harris.

20 MR. CONINE: Okay.

21 REV. HARRIS: Bethel Baptist Church, Crockett.

22 MR. CONINE: Got it.

23 REV. HARRIS: We're happy to partner with East
24 Austin Economic Development Corporation to make this

1 project in Bethel a reality because there are people in
2 the rural Crockett that's still living without running
3 water and outside restrooms, and there are people within
4 the City of Crockett that have poor living conditions,
5 that being seniors. And so, we would hope that you would
6 favor and grant this pool to make this project a reality
7 in Crockett, Texas. Thank you.

8 MR. CONINE: Thank you very much. Next?

9 MR. McPHERSON: I'm Marvin McPherson. I'm the
10 Chairman of the Bethel Economic Development Community,
11 Economic Development Project. We're here -- our
12 relationship with East Austin has bene a good one. We
13 started with them over a year and a half ago, just talking
14 with them, meeting with them, and they was telling us
15 about their program. We knew that this was needed in the
16 Crockett, Texas area, for us to develop the Crockett area
17 for senior citizens and also for other housing that is
18 needed there in that area.

19 With this partnership, with their experience,
20 and the capacity that they have, we felt that it was a
21 better opportunity for us to partner with them, to allow
22 them to teach us, to guide us through this, and maybe
23 we'll be able to stand one day on our own, and present
24 these things to the board, that we may be able to really

1 move Crockett into a direction that they need to be in, in
2 housing those homeless. Thank you.

3 MR. CONINE: Thank you.

4 MR. JOHNSON: Hi, my name is Van Johnson and I
5 am the Executive Director of the East Austin Development
6 Corporation. We're located right here in Austin, Texas
7 and we've done a number of projects, probably about \$11
8 million worth now. So we have a lot of experience in what
9 we do.

10 As a part of our mission, we go out into the
11 rural areas and through Dr. Griffin, whose a dean in the
12 National Baptist Congress, we partner with small rural
13 communities to bring out capacity, out in those
14 communities, because it does not really exist. As a
15 matter of fact, when you consolidate a plan, that is
16 clearly stated that that is one of the issues that affects
17 rural areas, but I want to deal with the appeal real fast.

18 I don't actually understand. We went through
19 threshold, scored high, and a bit, and I don't understand
20 why we were even turned down, but I'll just read that to
21 you so you have it in front of you. TDHCA's statement was
22 that "the applicant's underwriting performance was more 5
23 percent outside the underwriter's verifiable range."

24 Our total operating expenses were in 3 percent

1 and the only change that took place was when the
2 underwriter arbitrarily attached \$960 to our operating
3 income for laundry and vending machines, which we don't
4 put in any of our units because they're small units. They
5 may work on a 60 or 70 unit project, but on a 16, 20 unit
6 project, we put amenities, washing machines, dryers.
7 Okay. So we're within 3 percent, which, okay.

8 The other direct construction costs, the
9 Department said differed from underwriters Marshall and
10 Swift, based estimates by more than 5 percent. Our total
11 development costs are within 4.6 percent. This issue
12 never came to us when we were discussing this with staff.

13 They discussed everything else, the underwriter. They
14 never discussed this issue with us.

15 The other thing is we're within the HUD 221(d)
16 guidelines and that's what we used when we did our
17 takeoff. Even though these are preliminary construction
18 estimates, when we get to final construction, we will nail
19 it down.

20 "The development's 30 year performer does not
21 maintain a DCR in the acceptable range and net operating
22 income remain positive over the project 30 years." Well,
23 that one just kind of -- well, first of all, I'd say, in
24 response to the underwriters' department's request, we

1 provided a written solution to the issue by pledging, out
2 of development fees, \$17,108, to be placed in a reserve
3 account to fund any negative cash flow through years 25
4 through 30, or earlier if needed.

5 A conservative estimate of this reserve
6 account, in 20 years, at 4 percent annum, would have a
7 balance of \$38,000. This in year 25 through 30, when you
8 would need \$17,000. We were not taking out of operating
9 income. We were taking it out -- we were reducing our
10 development fees and putting it in there.

11 And then, even though this wasn't part of the
12 thing, one of the things that was mentioned -- and I --
13 we're one of the strongest non-profits in the state of
14 Texas, particularly as a CHDO. East Austin -- and they
15 raised that question. I don't why, but when projects with
16 a lot less fly through, and we've had many go through
17 EADC.

18 East Austin Economic Corporation, we're 15
19 years old. We manage and own over \$4 million in real
20 property, including two HOME projects, a twelve unit and a
21 20 unit HOME project. Our audit and financial statements
22 submitted in the application, and this is a year ago, show
23 \$47,000 in cash in accounts receivable. We have a net
24 worth of over a million dollars. If they looked in tab 38

1 and 47 of the application, delineated, the development
2 ownership experience of EADC, including identified and
3 real property by EADC.

4 In addition to that, we have great
5 relationships with banks to do almost anything we want to.

6 We have great credibility. I just put in your folder one
7 letter from Frost Bank. We also have it with Chase and
8 Wells Fargo. Just with the two banks, we have a \$700,000
9 line of credit that we can draw on to do any development
10 that we want to do.

11 I just want to summarize what's the most
12 salient point was about the 30 year cash flow. I just
13 want to summarize. TDHCA and its underwriters have the
14 authority, and are directed, under the rules and
15 guidelines, to make such make such reasonable and
16 plausible adjustments so as to make proposed projects both
17 feasible and workable. This is appropriate since, under
18 current underwriting guidelines, there are more than 60
19 counties that could not receive from TDHCA with small
20 projects without applying that rule.

21 In certain instances, as recent as September
22 11, in cases before the board, staff underwriters used
23 this discretion to make certain projects, especially
24 non-tax credit projects, more feasible, increasing income

1 estimates, forgiving certain debt. The Bethel Senior
2 Housing application seems not to have received that kind
3 of consideration and assistance.

4 We respectfully request consistency and
5 fairness in the application of the guidelines and rules.
6 This rule seems to be applied selectively. We
7 respectfully appeal to the board, requesting consideration
8 of this project, and request approval on the basis of our
9 last submission.

10 MR. CONINE: Thank you, Mr. Johnson. Any
11 questions of Mr. Johnson?

12 (No response.)

13 MR. CONINE: I also had a witness affirmation
14 form on Mr. Mike Harms. Is he here?

15 MR. HARMS: I'll pass.

16 MR. CONINE: Okay. Close public comment on
17 6(b)(1). Ms. Carrington?

18 MS. CARRINGTON: Thank you. I would, as Tom
19 Gouris is coming up, because I suspect that the board is
20 going to have some questions related to the underwriting.

21 Bethel Seniors did follow the process that's laid out for
22 the agency and in both applying under the HOME multifamily
23 CHDO round. They applied on April 2. They were not
24 recommended in that group of applications that went to the

1 board on September 15, due to financial instability.

2 They did timely file their appeal to the
3 Executive Director. The Executive Director did deny the
4 appeal and then, of course, they have the ability to
5 appeal to the board. All of the backup for the appeal is
6 in the board book. It has been articulated what the
7 agency did use. We have a requirement to identify a
8 positive cash flow over a 30 year period, as required by
9 the Department statute. This is what we did use to deny
10 the appeal on this application and also to terminate the
11 application.

12 Mr. Gouris is here and available to answer any
13 questions that the board might have specific to that.

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

15 MR. BOGANY: One quick one. Why won't this
16 work? I know it's a 30 year cash flow that you're looking
17 at. Kind of explain to me, what you look at, if you can,
18 quickly.

19 MR. GOURIS: Both in their pro forma and our
20 pro forma, it reflected that it would miss that break even
21 at some point before the 30 years were up. They attempted
22 to adjust their expenses over time so they didn't grow by
23 the factors that we used to do our analysis. So that
24 would show that it would happen further out in time, but

1 still within the 30 year period.

2 The reason that it happened is because the
3 operating expense number is a high percentage of the
4 potential gross. Whenever that happens, the likelihood
5 that those two paths will cross, that expenses will exceed
6 income, is great. That's what happened in this case.

7 MR. BOGANY: Have we approved a project
8 similar? It seems like there's a need for it, but in his
9 comments he said, we've approved other projects that
10 didn't meet those types of deals. I'm just wondering,
11 have we?

12 MR. GOURIS: There was one this year, that we
13 talked about.

14 MR. CONINE: I think we overruled one that I
15 can remember.

16 MS. CARRINGTON: Canal Street --

17 MR. GOURIS: Canal Street is the one that
18 I'm --

19 MS. CARRINGTON: -- in Houston was the one that
20 was approved.

21 MR. GOURIS: Correct. The --

22 MR. BOGANY: What's the difference between the
23 Canal Street and this one?

24 MR. GOURIS: The mitigating information, the

1 information that allows us, I think, to grant additional
2 deference. The Canal Street property was their
3 fundraising capacity, their ability to bring other funds
4 to the development. There's no other funds being brought
5 to this development. In fact, one of the suggestions to
6 solve this was to use the developer fee that the
7 department was going to fund and set it aside for this
8 future potential use.

9 That's a huge difference, the ability to raise
10 funds from other places, and bring it to bear on the
11 property. That would be a strong suggestion to make this
12 property work in the further, is to bring some additional
13 funds from other sources.

14 MR. BOGANY: Right, but if they defer the
15 development fee, if they took their development fee, it
16 still wouldn't work from your analysis?

17 MR. GOURIS: Well, if they took that developer
18 fee, and didn't use it as developer fee, then it wouldn't
19 be developer fee, and we couldn't pay it as such. We'd
20 have to pay it -- I mean, it wouldn't be developer fee any
21 more.

22 MR. CONINE: How much was the total developer
23 fee on this project?

24 MS. CARRINGTON: We do have that information.

1 As Tom is looking that up, one of the things that the
2 board just did was approve an open cycle for funds that
3 are not required to go into the regional allocation
4 formula and the multifamily CHDO funds are ones that do
5 not have to go through an open cycle. What we are
6 encouraging all applicants to do, that applied last
7 summer, and for whatever reason, were not recommended, we
8 are encouraging them to come back to us during that open
9 cycle, addressing the concerns of why they weren't
10 recommended in the first place.

11 MR. GOURIS: Or if I might add, before that
12 cycle has been opened, so that we can discuss this, so
13 that we can help them work those issues out, because I
14 think there's a reasonable solution.

15 It's \$105,000, by the way, the developer fee.

16 MR. CONINE: Before the \$17,000 offer, there
17 wasn't any deferred in your financial analysis?

18 MR. GOURIS: Correct.

19 MR. CONINE: Okay. Mr. Johnson, you want to
20 mention something?

21 MR. JOHNSON: Yes, I would. What we suggest
22 is -- because this particular thing affects more than us,
23 in Bethel. It affects over 60 rural counties, that
24 prevents money from getting there. The other thing, the

1 reason we really are doing the appeal, is that this rule
2 is applied selectively. Okay?

3 MR. CONINE: Okay.

4 MR. JOHNSON: That is the issue. The other
5 thing is -- it is, in terms of the development fee, when
6 the project is built, the Department doesn't determine
7 what happens to the development fee. The owner does.
8 That is money that the owner gets and if we choose to
9 invest the development fee back into the project, that is
10 feasible.

11 MR. CONINE: I --

12 MR. JOHNSON: I mean, why go out and sell cakes
13 and pies?

14 MR. CONINE: I agree with you there. What are
15 the HOME funds? Is that requested in this particular
16 project?

17 MR. GOURIS: They requested \$999,000, I
18 believe, \$999,999.

19 MR. CONINE: Okay.

20 MR. JOHNSON: A million dollars.

21 MR. GOURIS: A dollar less than a million, yes.

22 MR. CONINE: Are those available now? If the
23 board were to grant this appeal, are those funds
24 available?

1 MS. CARRINGTON: Yes, they are.

2 MR. SALINAS: Do we have any discretion?

3 MR. CONINE: Oh, don't ask that question.

4 Where's Jones when you need him?

5 MR. SALINAS: I'm afraid we don't have any
6 discretion.

7 MR. CONINE: I think because the appeal is in
8 front of us, we can grant the appeal. I would presume
9 that counsel would not have let it get on the agenda
10 unless we could.

11 MR. SALINAS: Can we grant the appeal?

12 MR. BOGANY: I move that we --

13 MR. SALINAS: Here we go.

14 MR. WITTMAYER: There's a good cause exception
15 in our appeals procedure, in Section 1.7 of our appeals
16 process. It states that if the board, in the exercise of
17 its discretion, determines there is good cause, even if it
18 doesn't find other grounds for the appeal, it may exercise
19 its discretion, if there's good cause.

20 MR. BOGANY: I have one question.

21 MR. CONINE: Okay.

22 MR. BOGANY: Is there any way, if we grant the
23 appeal, that you can get with this group, because they
24 seem to be financially sound, why we can't work something

1 out, or move something around, to make this thing work?

2 MR. GOURIS: Regardless if you grant the appeal
3 or not, I think we're more than wiling and happy to do
4 that.

5 MR. SALINAS: Well, I'll move to go ahead and
6 grant the appeal.

7 MR. BOGANY: Second.

8 MR. CONINE: Mayor Salinas, motion to approve
9 the appeal. Bogany seconded. Any further discussion?

10 (No response.)

11 MR. CONINE: Seeing none, all those in favor,
12 signify by saying aye.

13 (A chorus of ayes.)

14 MR. CONINE: All opposed?

15 (No response.)

16 MR. CONINE: Motion carries.

17 MS. CARRINGTON: Thank you, Tom. Thank you.

18 MR. CONINE: 6(b)(2).

19 VOICE: Thank you.

20 MR. CONINE: You're welcome. Make sure it's
21 pretty.

22 VOICE: We build them pretty.

23 MR. CONINE: Invite us to the open house.

24 VOICE: You better go.

1 MS. CARRINGTON: We are moving now to
2 utilization of HOME funds out of the single family portion
3 of the HOME program, for the allocation of \$13,832,000
4 worth of HOME funds for disaster relief. In January of
5 last year, the board did approve a deobligation policy for
6 HOME funds. The first priority on deobligated funds is
7 appeals and the second priority is disasters.

8 You will notice this is a large amount of
9 money. It's a large amount of HOME funds. Over the past
10 year and a half, TDHCA staff has been performing an
11 extensive reconciliation of HOME program funds. We have
12 basically been scrubbing the contracts and the obligations
13 to determine whether all money had indeed been spent,
14 whether there is some that is coming back to the
15 Department. This is really an ongoing process for us.

16 As a result of identifying these dollars, the
17 Department has established a committee that's consisting
18 of members of single family, multifamily, portfolio
19 management compliance, accounting, and senior oversight by
20 the Department's Chief of Agency Administration that will
21 be responsible for continually determining how much the
22 Department has in deobligated funds.

23 All of the recommended awards that you see in
24 front of you today have a FEMA designation, which means

1 that they have been declared disaster areas. We have also
2 received a letter from Governor Perry on all of these
3 communities requesting disaster relief from the agency.
4 It's a variety of different disasters, as identified by
5 each of the different FEMA disaster relief numbers. And
6 then, if you're interested in what happened in a
7 particular community and what they're going to use the
8 funds for, we have their application attached behind that.

9 The project costs for actually doing the
10 rehabilitation and the reconstruct on the houses would be
11 \$13.3 million. The communities are eligible for a 4
12 percent administrative fee. That's \$532,000. And so, the
13 total that staff is recommending is \$13,832,000 and I will
14 note that these disasters do go back for about a year and
15 a half. So it's over about a year and a half period of
16 time.

17 MR. SALINAS: I move for the approval.

18 MR. BOGANY: Second.

19 MR. CONINE: Motion and second, motion by Mr.
20 Salinas, second by Mr. Bogany, for the approval of the
21 HOME fund awards on the deobligated funds in the amount of
22 \$13,832,000. Any further discussion?

23 (No response.)

24 MR. CONINE: Seeing none, all those in favor,

1 signify by saying aye.

2 (A chorus of ayes.)

3 MR. CONINE: All opposed?

4 (No response.)

5 MR. CONINE: Motion carries.

6 MS. CARRINGTON: The next item, 6(c), on the
7 agenda relates to a Housing Trust Fund award that was made
8 on May 5, 2000. It was made by the board out of the
9 Housing Trust Fund. This award was made to Green Bridge
10 Development Company. The purpose of the award was to
11 provide funds to Green Bridge, and it was \$250,000, to
12 assist in the acquisition and preservation of multifamily
13 properties, by providing free development services and due
14 diligence reviews on properties under contract for
15 purchase.

16 In particular, the portfolio that was being
17 looked at was a portfolio of 515 properties, sometimes
18 known as Farmer's Home, but now known as rural
19 development, you know, those properties of 2436 units
20 around the state that are developed in rural communities.

21 The loan contract that was executed with Green Bridge did
22 allow, does allow, for either forgiveness or deferral of
23 the loan. So that was anticipated when the contract was
24 executed.

1 Actually, \$168,000 was drawn down under the
2 \$250,000 of the contract. What Green Bridge has done is
3 request forgiveness to the Department. The remaining
4 \$82,000 has actually been deobligated and has gone back
5 into the Housing Trust Fund. Staff is recommending
6 forgiveness of the repayment of the 168,000.

7 MR. BOGANY: So moved.

8 MR. SALINAS: Second.

9 MR. CONINE: Motion by Mr. Bogany, second by
10 Mr. Salinas. Is there any further discussion?

11 Were these HOME funds?

12 MS. CARRINGTON: No, sir, it was Housing Trust
13 Fund.

14 MR. CONINE: Housing Trust Fund?

15 MS. CARRINGTON: Yes, sir.

16 MR. CONINE: Okay. Thank you. Any further
17 discussion?

18 (No response.)

19 MR. CONINE: Seeing none, all those in favor,
20 signify by saying aye.

21 (A chorus of ayes.)

22 MR. CONINE: All opposed?

23 (No response.)

24 MR. CONINE: Motion carries. Is 7 the right

1 one to go to next?

2 MS. CARRINGTON: Yes, sir.

3 MR. CONINE: Okay.

4 MS. CARRINGTON: 7(a), (b), and (c), Byron
5 Johnson, finally. These items relate to some activities
6 in our Home Ownership program. The first, item 7(a)(1),
7 actually, I'm going to ask you to go to 7(a)(2) first,
8 which is approval for the board, from the board, to
9 actually offer, create a mortgage credit certificate
10 program.

11 In May 2002, you all received a presentation
12 from staff with a recommendation from us, that rather than
13 issuing tax exempt bonds to make mortgage loans, that we
14 take a portion of our private activity authority, and we
15 convert it into mortgage credit certificates, which the
16 Department had done back in the late '80's, but not done
17 an MCC program for several years.

18 What we are doing -- and if you will look
19 behind your tab and at the chart on the bottom of that
20 page -- we are recommending taking 60 million of our
21 private activity bond cap. The IRS conversion rate is
22 actually 25 percent. So that would make 15 million that
23 was available for a mortgage credit certificate program.
24 The credit rate that we would be using is 30 percent and

1 we can actually, the IRS allows you to choose between 20
2 and 50 percent as to how much that benefit would be.
3 We're actually going to start at 30 percent, and see how
4 that goes, and may look for an adjustment.

5 We believe that this will allow us, if we have
6 an average purchase price of about \$75,000 on a home, that
7 it will allow us to assist between 500 and 600 first-time
8 home buyers around the state. And so, staff is requesting
9 approval of the resolution and converting this volume cap
10 into 15 million of mortgage credit certificates.

11 MR. BOGANY: So moved.

12 MR. GONZALEZ: Second.

13 MR. CONINE: Motion by Mr. Bogany, second by
14 Mr. Gonzalez, resolution number 03-080. Any further
15 discussion?

16 (No response.)

17 MR. CONINE: Seeing none, all those in favor,
18 signify by saying aye.

19 (A chorus of ayes.)

20 MR. CONINE: All opposed?

21 (No response.)

22 MR. CONINE: Motion carries.

23 MS. CARRINGTON: Okay. Going back now to item
24 7(a)(1), since we will have an MCC program, we now need an

1 MCC administrator.

2 Staff did do a request for proposals for
3 someone to assist the Department in marketing the program
4 and doing some administration of the program. We received
5 one response to our request for qualifications and that is
6 behind your cover page. The group is Housing
7 Administrators, Inc., who I believe probably assisted the
8 Department back in the '80's when we had our other MCC
9 program.

10 The list of what we are expecting from them is
11 included on the first page and there's about ten items
12 that we've identified that we are looking for assistance
13 on. And then, the last page on their three pages is the
14 fee schedule for Housing Administrators.

15 We are recommending that they do be hired as
16 the administrator and consultant for TDHCA in this
17 program.

18 MR. CONINE: Is there a motion?

19 MR. BOGANY: So moved.

20 MR. SALINAS: Second.

21 MR. CONINE: Motion by Mr. Bogany, second by
22 Mr. Salinas, that we approve this mortgage credit
23 certificate program administrator. Any further
24 discussion?

1 MR. BOGANY: I have one quick question.

2 MR. CONINE: Okay.

3 MR. BOGANY: What assurances are we going to
4 have that they're going to market this program and get it
5 out there to the public, to the realtors, to the builders,
6 on this program? Are they saying what they're going to
7 do? I guess, we didn't see that part of it in here, but
8 what kind of marketing plan are they planning on doing?
9 Are they going to send a bunch of brochures out? Or what
10 are they going to do?

11 MS. CARRINGTON: Eric, is that a question for
12 you or Byron or both?

13 MR. PIKE: Both probably. Eric Pike, single
14 family director. Byron and I probably need to have some
15 additional discussions on this, but my thought is, is that
16 my division will be responsible for marketing this
17 program, along with our other first-time home buyer
18 products.

19 My understanding is that the administrator will
20 be responsible for preparing a program manual for us,
21 processing the actual certificates, and issuing them, and
22 things of that nature, but as far as getting out there and
23 marketing this program, it's my thought that that would be
24 my responsibility.

1 I will say, Shad, to address this, we are going
2 to be participating in the Texas Mortgage Bankers
3 Association conference, in Dallas, Monday and Tuesday of
4 next week. We have a booth assigned to us and we're going
5 to be marketing this MCC program. We already have
6 developed a brochure that we're going to be using
7 initially, as well as our expand approval program and the
8 regular first-time home buyer program.

9 Our thought is that this gets us in front of
10 lenders who will be there at that conference. Those are
11 the types of people that we want to market this to
12 initially, to get them on board, and then, you know, they
13 in turn would go out and actually help us to market it to
14 the public.

15 MR. BOGANY: Okay.

16 MS. CARRINGTON: Shad, I might also add, as you
17 know, we have been working with the Texas Association of
18 Realtors, and they have a meeting in February, the last
19 part of February. The Department has been invited to
20 participate in some of those workshops and do some
21 presentations at that meeting. And so, I think that will
22 be very timely for our MCC program also.

23 MR. BOGANY: Good, because I really truly
24 believe to make this work, you've got to get to the people

1 to make it happen. That's going to be the realtors and
2 the builders because we're going to suggest that the
3 lenders, you need to get them signed up, but the realtors,
4 the people that are on the street, are the ones that are
5 going to make it work, and whatever we can do to get to
6 them is going to be real important.

7 MR. CONINE: Okay. There's a motion on the
8 floor. Any further questions?

9 (No response.)

10 MR. CONINE: Seeing none, all those in favor,
11 signify by saying aye.

12 (A chorus of ayes.)

13 MR. CONINE: Any nays?

14 (No response.)

15 MR. CONINE: Motion carries.

16 MS. CARRINGTON: The next item is an update on
17 the Capital Fund Program. The board took a look at this
18 about a year and a half ago. This is an update only. I
19 would encourage you all to take a look at this. We are
20 having meetings with housing authorities. We're having
21 conference calls with HUD. We will be coming to you all,
22 probably in the next couple of months, with this program.

23 I think that's all we'll say, since we do need to move
24 onto the next item. That does require a motion.

1 This would be item (c), which is a resolution
2 authorizing the additional series for TDHCA's single
3 family mortgage revenue refunding tax exempt commercial
4 paper notes program. In July of this year, the board
5 approved an increase in our commercial paper program, from
6 75 million to 200 million.

7 The idea is we need that additional increase to
8 be able to manage about \$101 million of private activity
9 volume cap. We have gone to the bond review board and the
10 good work of many staff who were involved in basically
11 providing information, education to some new members of
12 the bond review board, the bond review board has approved
13 this additional increase in our commercial paper program.

14 What we are asking for today is to create a
15 Series C, which is a third series in our commercial paper
16 program. We have a Series A and a Series B that
17 accommodates our 75 million. This Series C would allow us
18 to accommodate the remainder, the difference between the
19 75 million and the 200 million.

20 And so, staff is recommending that you all do
21 approve this creation.

22 MR. BOGANY: So moved.

23 MR. SALINAS: Second.

24 MR. CONINE: Motion by Mr. Bogany, second by

1 Mr. Salinas. Any further discussion?

2 (No response.)

3 MR. CONINE: Seeing none, all those in favor,
4 signify by saying aye.

5 (A chorus of ayes.)

6 MR. CONINE: Motion carries. That was for
7 resolution 03-081.

8 I guess we need to go to 8.

9 MS. CARRINGTON: Yes, sir. Thank you, Byron.

10 MR. CONINE: Thank you, Mr. Johnson.

11 MS. CARRINGTON: Okay. What the board has in
12 front of them this afternoon, on item 8, is requests for
13 extensions. These are all related to extensions in our
14 Tax Credit program.

15 MR. CONINE: We've got some public comment I
16 guess we need to get to first on that on 8(a)(1), which
17 would be Mr. Robert Greer.

18 MR. GREER: Good morning, Mr. Chairman, members
19 of the board. My name is Robert Greer. I am the
20 president of Michaels Development Company and I make
21 myself available to you this morning to trace the history
22 of these projects leading to this request should you have
23 such questions.

24 If I may briefly address, I was before you

1 previously requesting your approval to be accepted to step
2 in the position of the general partner of these four
3 programs that were previously awarded to Century Pacific.

4 And that, in doing so, and in joining into a settlement
5 agreement with the Department; that we would proceed with
6 the full rehabilitation of these four developments, in
7 doing so, not requesting any additional consideration for
8 more financing from the Department; that we would, in
9 fact, begin immediately to be involved in a rehabilitation
10 activity in one of the properties damaged by storm, which
11 we have done and have spent over a million and a half
12 dollars to date.

13 We also represented to you our willingness to
14 move forward with a HUD mortgage insurance program, to
15 afford us the ability to do far more rehabilitation
16 activities on these four properties than were demonstrated
17 in the tax credit applications which received the initial
18 rewards. We propose to do an additional \$4.5 million of
19 additional rehabilitation activity, ensuring the greater
20 success of these existing affordable housing properties.

21 In doing this, we propose utilizing both the
22 Dallas-Fort Worth HUD office and the Houston HUD office to
23 begin that process, and did, in fact, submit our
24 pre-applications with Riley Mortgage, received

1 pre-application approval, and invitation to firm and
2 closing. This involved both IRP decoupling, the mortgage
3 insurance program, the rent approvals, the operating
4 approvals by both HUD offices.

5 However, upon receiving that invitation to
6 firm, we were then notified by Washington HUD that one
7 member of the Riley Mortgage Company was in fact a member
8 of a partnership with our company in a development in
9 Pennsylvania and because of that relationship, HUD felt
10 they could not accept all of the underwriting that was
11 submitted to them for these deals, and required us to then
12 engage another MAP processing entity to re-underwrite all
13 the conclusions HUD had accepted.

14 We then engaged GMAC to begin the process all
15 over again. It meant that all of the market studies,
16 environmental reports, all the aspects of the
17 pre-application that were done by Riley would have to be
18 done by other third party members, in order to eliminate
19 any possible taint in the initial underwriting. That has
20 now been redone and resubmitted. They are all in the
21 hands of the Dallas-Fort Worth and Houston HUD offices and
22 we are told to expect responses to those by the beginning
23 of next week.

24 That enables us to conclude the mortgage

1 insurance processing and take these developments to a
2 completed process of financing and begin the construction
3 activities.

4 The only other outstanding element has to do
5 with TPA, the transfer of the physical assets from one
6 entity to another. When I stood before you several months
7 ago, we were lead by counsel recommending -- at that time,
8 counsel brought by Century Pacific -- to submit what's
9 called a modified TPA, or an abbreviated form of
10 documentation, which we then submitted.

11 Again, upon receipt of HUD, very recently, they
12 declared that in fact the modified TPA was not going to be
13 acceptable, under all these circumstances, that they
14 wanted a full TPA presented to the HUD offices, which we
15 have now done. It has all been submitted and we're
16 informed by telephone, but not in writing, that this will
17 also be accepted.

18 Based on these unforeseen setbacks, and
19 required duplication of activity, we present ourselves to
20 you today and request your support for an extension for a
21 loan closing.

22 MR. CONINE: Thank you, Mr. Greer. Any
23 questions of him?

24 (No response.)

1 MR. CONINE: Close public comment in 8(a)(1).
2 Ms. Carrington?

3 MS. CARRINGTON: Four developments are included
4 in this request and it is a request for an extension on
5 the closing of the construction loans for all four and the
6 commencement of substantial construction for all four.
7 The deadlines were all the same. They're listed on the
8 bottom of the first one, which is CPL Limited and staff is
9 recommending extensions for each of these requests. I can
10 identify them if you want.

11 MR. CONINE: No, let's just do them as a bulk.

12 MS. CARRINGTON: Yes.

13 MR. CONINE: Do I hear a motion?

14 MR. GONZALEZ: So moved.

15 MR. BOGANY: Second.

16 MR. CONINE: Mr. Gonzalez moved, seconded by
17 Mr. Bogany. Any further discussion?

18 (No response.)

19 MR. CONINE: Seeing none, all in favor, signify
20 by saying aye.

21 (A chorus of ayes.)

22 MR. CONINE: All opposed?

23 (No response.)

24 MR. CONINE: The motion carries.

1 MR. GREER: Thank you so much.

2 MR. CONINE: Thank you. It's 8(a)(2). Ms.
3 Carrington?

4 MS. CARRINGTON: Yes, 2, 3, 4, 5, and 6 are all
5 requesting extensions for the commencement of
6 construction, which their current deadline is November 14.

7 Staff is recommending extensions per the request of the
8 applicants -- some of them do differ as to what the new
9 deadline will be. Staff is recommending all of these.
10 Mr. Chair, would you like us to do them one by one? Or
11 would you like to take them as a bulk?

12 MR. CONINE: How far are we extending out to?

13 MS. CARRINGTON: Park Manor Apartments, which
14 is the first one that's listed, the new deadline is
15 January 13. Valley View Apartments, the new deadline is
16 January 14. Lovett Manor Apartments, the new deadline is
17 February 10. Meadows of Oakhaven Apartments, new deadline
18 is January 30. Heatherbrook Apartments, new deadline is
19 February 12.

20 MR. SALINAS: I move for the approval of the
21 extensions.

22 MR. BOGANY: Second.

23 MR. CONINE: Motion for approval of all five of
24 the project extensions, seconded by Mr. Bogany. I will

1 note for the record I have a couple of public comments,
2 but I assume if we're going to approve it, they wouldn't
3 mind not speaking. Thank you.

4 VOICE: Thanks guys.

5 MR. CONINE: Any further discussion?

6 (No response.)

7 MR. CONINE: Seeing none, all those in favor,
8 signify by saying aye.

9 (A chorus of ayes.)

10 MR. CONINE: All opposed?

11 (No response.)

12 MR. CONINE: Motion carries. Let's go, if we
13 can, Ms. Carrington, to Brooke Boston to the item we left
14 off the agenda back awhile ago, one of those little items
15 called approving the 2004 QAP.

16 MS. BOSTON: The technicality. As it relates
17 to the amenities, what we're proposing, which is partially
18 consistent with Ms. McIver's request is that in the
19 threshold section of the QAP, which would be Section
20 49.9(F)(4)(a). Right now, it has language that you'd have
21 to have a certification of the amenities and you'd
22 actually submit the amenities.

23 Our alternative statement would say, "The
24 applicant must certify that they will meet at least the

1 minimum point amenities for threshold, as further
2 described in 49.9(G)(7)(d)", which is the section of
3 amenities that's referenced under the scoring criteria.
4 Having it there will ensure that people who have to deal
5 with threshold wouldn't necessarily have to score will be
6 required. So even if it was someone who, for whatever
7 reason, because of a non-competitive setaside or maybe a
8 region didn't go for those, they'd still have to do a
9 certain level of them.

10 Then, the actual list that was in there, we're
11 just going to mesh it with the list that was under
12 selection and make sure that not repetitions, and just
13 kind of merge them together.

14 So that's our suggestion. Someone else
15 actually pointed out to me that we right now, on page 37
16 of QAP that you have, we are giving points, or one point,
17 for tenant populations with children, and it had said,
18 "must show that 35 percent or more of the units have more
19 than two bedrooms". And so, that would conflict, like
20 just to the number, of your suggestion under the eligible
21 building type. So our proposal would be, on the family
22 point, to lower it down to the 30 percent, and just say
23 they must show that 30 percent of the units have more than
24 two bedrooms.

1 MR. CONINE: Okay.

2 MS. BOSTON: So that someone could actually
3 meet both their requirements.

4 MR. CONINE: There's two amendments. Can I get
5 a motion on the floor?

6 MR. BOGANY: So moved.

7 MR. CONINE: There's a motion by Mr. Bogany.
8 Do we have a second?

9 MR. SALINAS: Second.

10 MR. CONINE: Second by Mr. Salinas. Any
11 discussion on the two amendments that Brooke has brought
12 to us?

13 (No response.)

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

16 (A chorus of ayes.)

17 MR. CONINE: All opposed?

18 (No response.)

19 MR. CONINE: Motion carries. Now, we're going
20 to vote on the adoption of the new Title X, Part 1,
21 Chapter 50, 2004 Housing Tax Credit program qualified
22 application plan and rurals, as amended.

23 MR. BOGANY: So moved.

24 MR. CONINE: There's a motion by Mr. Bogany --

1 MR. GONZALEZ: Second.

2 MR. CONINE: -- and a second by Mr. Gonzalez.
3 Any further discussion?

4 (No response.)

5 MR. CONINE: Seeing none, all those in favor,
6 signify by saying aye.

7 (A chorus of ayes.)

8 MR. CONINE: All opposed?

9 (No response.)

10 MR. CONINE: Motion carries. Now, back to item
11 8(b), I believe.

12 MS. CARRINGTON: May I go back to that item,
13 Mr. Chair?

14 MR. CONINE: Which item?

15 MS. CARRINGTON: The tax credit item, the QAP.

16 MR. CONINE: You want to make an editorial
17 comment?

18 MS. CARRINGTON: Yes, sir.

19 MR. CONINE: Go right ahead.

20 MS. CARRINGTON: Thank you very much. I would
21 like to congratulate and thank all of those folks in the
22 room who are still left who participated in the QAP
23 working group that started in February of last year and we
24 will be cranking up a new group, I guess, in January or

1 February, actually January or February of this year, and
2 we will be beginning that group next year.

3 We also had several of you all who participated
4 in the public input group. I want to thank you all for
5 the hours that you spent related to working with us on the
6 qualified application plan.

7 I also want to thank our staff, who attended
8 all of these public hearings and read through transcripts,
9 and wrote down public comments, and have done, I think, an
10 excellent job in summarizing comments, and then doing
11 recommendations based on those comments or not based on
12 those comments. I think, you know, we certainly know that
13 everybody is not always going to agree with us and we
14 understand that. I haven't heard anybody today say that
15 they thought they were inaccurately quoted.

16 And so, I think that is a very positive thing
17 and I certainly would like to commend the staff for the
18 job that you all have done through these hearings.

19 (Applause.)

20 MR. CONINE: Item 8(b).

21 MS. CARRINGTON: Thank you. When your agenda
22 was published and your book was sent to you, there were
23 eight tax exempt bond and 4 percent credit developments
24 for your consideration. Two of these are not going to be

1 considered today.

2 The first one, Primrose Skyline Apartments,
3 this they've asked that this be postponed until December.

4 So this one will not be considered. The one that is the
5 next to the bottom, Little York Park Apartments in
6 Houston, this development has been officially withdrawn.

7 So what the board has in front of them for
8 consideration this afternoon is six tax exempt bond
9 finance developments, with 4 percent tax credits. All six
10 of them have issuers other than the Texas Department of
11 Housing and Community Affairs. Your agenda does tell you,
12 in each case, who is the issuer on each of these
13 transactions. So the Department's role is to allocate the
14 4 percent credits.

15 You have both the tax credit recommended sheet
16 on how much the allocation of tax credits would be, along
17 with the summarization of public comment, down at the
18 bottom at each of those sheets. Again, someone else holds
19 the public hearing for these transactions. TDHCA does not
20 hold the public hearing. And then, you also have the
21 underwriting report for each of these developments.

22 Each of these developments, they are all being
23 recommended by staff for an amount of low income housing
24 tax credits. Each of them do have conditions, conditions

1 that are put on first by the multifamily area related to
2 bonds and then conditions in the multifamily area related
3 to tax credits.

4 Those conditions are always the same with the
5 exception of the bond requirement is, per the QAP, that
6 there be a qualified service provider, to provide special
7 supportive services that would not be otherwise eligible
8 for the tenants. So when you look at the requirements
9 from the bond side and the credit side, they're always
10 going to be the same, except the bond side is going to
11 have one more requirement.

12 Each of these developments do have certain
13 requirements related to them that we will be verifying
14 prior to closing. With that, I will be happy to read them
15 one by one. Or, Mr. Chair, how would you like me to?

16 MR. CONINE: Why don't you read off the
17 development number and the name? That's all I need.

18 MS. CARRINGTON: How about the credit amounts?

19 MR. CONINE: Okay. Go ahead.

20 MS. CARRINGTON: Okay. The first would be
21 03-433, Southern Terrace in Dallas. The credit
22 recommended amount is \$1,043,740.

23 Development number 03-434, Preakness Ranch,
24 Dallas, has a credit amount of \$939,661.

1 Development number 03-436, Northland Woods
2 Apartments, Houston, has a credit amount of \$865,730.

3 Development number 03-438, Parkside Point
4 Apartments, in Houston, has a credit amount of \$792,586.

5 Development number 03-441, Primrose At
6 Jefferson Plaza, San Antonio, has a credit amount of
7 \$616,285.

8 The last one is development number 03-449,
9 Little Nell Apartments, Houston, credit amount of
10 \$920,281.

11 MR. CONINE: Do I hear a motion?

12 MR. SALINAS: So moved.

13 MR. BOGANY: Second.

14 MR. CONINE: Motion and approval for the six
15 determination notices that Ms. Carrington read off. Any
16 further discussion?

17 (No response.)

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

20 (A chorus of ayes.)

21 MR. CONINE: All opposed?

22 (No response.)

23 MR. CONINE: So moved.

24 8(c), we have some public comment on that, I

1 believe. Ken Mitchell?

2 MR. MITCHELL: Good morning, board. I am here
3 to address a restriction on the Grand Texan that is giving
4 me a whole lot of trouble. I would request that the board
5 to remove this restriction. I have a handout and I will
6 only take three minutes. Most of this is really to
7 support those communities.

8 Do you have the staff's report?

9 MS. CARRINGTON: Yes, they do.

10 MR. MITCHELL: You do, okay. If you would turn
11 to tab 1, this is the way this project was approved. The
12 amendment, if you'll turn to page 3, there is a condition
13 to this project which is very, very detrimental to senior
14 citizens. The restriction limits the occupancy to all the
15 units to senior citizens who make 50 percent or less of
16 the area median income. Now, this leaves out low income
17 seniors who make 50 to 60 percent of the low income.
18 Those are low income people.

19 If you will turn to page 11, in my pictures, I
20 want to show you some of our residents. This is Diane.
21 She's in a wheelchair. She's had a stroke. This is a
22 typical resident that we have. We cater to old, old
23 people. They all have disabilities.

24 Page 12, you see Ms. Margie. She's 94 years

1 old.

2 Page 13, we have a picture of Mr. Hubert. He
3 has COPD. He has trouble breathing.

4 Page 13, we have Latrice. You can see that
5 she's in a wheelchair. She has degenerative arthritis.
6 You see, next to Latrice, is Hugh. He has Parkinson's
7 disease and he is in a wheelchair. Thirty percent of our
8 residents are totally disabled.

9 If you turn to the next page, you will see Ms.
10 Olla Burke. She is 98 years old and that's incredible
11 that someone 98 can live in our project. She has
12 dementia.

13 Now, if you'll turn to page 2, tab 2, in the
14 second page, this is the Fair Housing Information that we
15 post in all of our projects. It is illegal to
16 discriminate based on handicap and when you start turning
17 away low income people that are all handicapped, you are
18 running into big trouble with their housing. I mean,
19 these people can go down and file a Fair Housing complaint
20 really quick because they qualify to live in the project.

21 They're income eligible under the tax credit rules.

22 If you'll go to the pictures on page 26, this
23 is our senior campus. As far as low income person, a low
24 income person can live at Country Lane. They can live at

1 Grand Reserve. Oh, I'm sorry. It's this last picture. A
2 low income person can live at Country Lane, can live at
3 Grand Reserve, but a low income person cannot live at
4 Grand Texan. If one of these seniors who is handicapped
5 come to me, and they're low income, 50 to 60 percent, I'm
6 saying we don't allow low income people here. Now, what
7 kind of rule is that?

8 In fact, they can live in any project in the
9 state except this one. This is the only project that has
10 ever had this restriction.

11 I would like to respond to the staff's position
12 that I have delivered less in my amendment than what my
13 original application was proposed. Tab 4, do you have
14 their report?

15 MS. CARRINGTON: Yes, they do.

16 MR. MITCHELL: You do. Okay. Thanks. Staff
17 recommendation, this is the last part of the report. It
18 says that "the application was originally proposed based
19 on serving a larger portion" -- that's the key word,
20 larger portion -- "of lower income families". Well, I
21 have calculated the portion. If you go over to the second
22 page, and you make a calculation in accordance with the
23 QAP, you can see a portion on this form, I've highlighted
24 for you. It says page 28. The original application, the

1 portion would be 50 percent. That would be the
2 calculation according to the QAP.

3 My amended application, the portion, would be
4 calculated 50 percent. It's equal. So this statement by
5 staff is incorrect. They have not given a calculation for
6 you to approve.

7 I would like to go to tab 5 and I have a letter
8 from Bank of America. The rents would increase a little
9 bit, \$2,700 a month. They're saying that their rents are
10 adequate. Based on this letter, from Bank of America,
11 they are not adequate. They are not adequate for our
12 permanent loan. Bank of America did produce a
13 calculation, based on underwriting numbers, I would
14 qualify for a loan of 4,225,000. Our loan is supposed to
15 be 4,600,000. We are 375,000 short.

16 I would like you to go to tab 6. I met with
17 our local city council member, Gilda Garza, and I said,
18 Gilda, I can't believe that we cannot admit low income
19 seniors to this project. I said, they have not done this
20 to any project in the whole state. She, of course, wrote
21 you a letter to support my position. Her comment was, you
22 know, Medicare's decreasing, people are trying to take
23 rights away from seniors, why would the state take housing
24 benefits from low income seniors?

1 I have a letter from the City of McKinney also
2 in support of my amendment. I would request that you
3 consider these letters of support in my amendment.

4 That's my presentation. Are there any
5 questions?

6 MR. CONINE: Any questions of Mr. Mitchell?

7 MR. SALINAS: What's the recommendation?

8 MR. CONINE: We'll get to that in just a
9 second. Hang on just a second.

10 I also note for the record, Ms. Cynthia Bast --
11 there she is, back there -- is here and is available.
12 Okay. Thank you.

13 Close public comment on 8(c). Ms. Carrington?

14 MS. CARRINGTON: Thank you, Mr. Chairman. This
15 was a transaction, or is a transaction, that was a forward
16 commitment in '01. The transaction was restructured from
17 230 units down to 100 units. When the applicant applied
18 to TDHCA, the election that they made on their application
19 was that they would lease units to families. They chose
20 the 20-50 test as opposed to the 40-60 test. So there was
21 an election that was made at application time.

22 The statement that we can't admit low income
23 seniors. Actually, this recommended amendment would allow
24 seniors of higher income to be accepted into this

1 development. What the Department is saying is regardless
2 of the number of units in this development, the election
3 you chose at the time you applied, is 20 percent of the
4 units at 50 percent. So in this case, since it's 100
5 percent affordable, 100 percent of the units have to be,
6 at this point, at 50 percent of area median income.

7 It is certainly this Department's practice to
8 fairly and consistently require developers to adhere to
9 what they applied for initially. Also, it is legislative
10 mandate of this Department to serve more lower income.
11 That is what requiring this developer to stay at the 50
12 percent level does. Yes, indeed, it does eliminate those
13 seniors who would be between 51 and 60 percent. That was
14 the election that was chosen.

15 The staff's recommendation is to deny this
16 request.

17 MR. CONINE: Is there a motion?

18 MR. SALINAS: So moved.

19 MR. CONINE: Motion to deny the request of the
20 applicant by Mr. Salinas. Is there a second?

21 MR. BOGANY: Second.

22 MR. CONINE: Second by Mr. Bogany. Any further
23 discussion?

24 MR. BOGANY: I just have a question.

1 MR. CONINE: Mr. Bogany, yes?

2 MR. BOGANY: The 50 percent that he -- what
3 you're saying is you're just following what he initially
4 presented to us when he got the deal. Am I correct?

5 MS. CARRINGTON: That is correct. Now the
6 transaction was restructured. The number of units was
7 reduced.

8 MR. BOGANY: Okay.

9 MR. CONINE: Was that because of our call? We
10 were short of tax credits on the forward commitment, if I
11 remember right. That was the only reason. Is that
12 correct, Mr. Mitchell?

13 MS. CARRINGTON: No.

14 MR. MITCHELL: We reduced our market rate
15 units.

16 MS. CARRINGTON: Yes.

17 MR. CONINE: Okay.

18 MR. MITCHELL: We turned them into tax credit
19 units.

20 MR. CONINE: Okay. Any further discussion on
21 the motion on the floor?

22 (No response.)

23 MR. CONINE: Seeing none, I'll call the
24 question. All those in favor, signify by saying aye.

1 (A chorus of ayes.)

2 MR. CONINE: All opposed?

3 (No response.)

4 MR. CONINE: Motion carries. Desert Breeze, El
5 Paso, Texas?

6 MS. CARRINGTON: Thank you. This is an '03
7 allocation of tax credits and the applicant is requesting
8 an approval for a change in the site plan. It's located,
9 the development will be located in Horizon City in El
10 Paso. It relates to some right of way with the City of El
11 Paso.

12 Noted down in your write-up, effect on change
13 of scoring, indeed, this does deduct the seven
14 pre-application points on this particular development.
15 However, this was in the rural setaside and the rural
16 setaside was undersubscribed. So losing those seven
17 pre-application points would not have affected this
18 development's ability to receive an allocation.

19 So based on that, the Department is, staff is
20 recommending the change in the site plan for Desert Breeze
21 Apartments.

22 MR. CONINE: Is there a motion?

23 MR. BOGANY: So moved.

24 MR. SALINAS: Second.

1 MR. CONINE: Mr. Bogany motions, Mr. Salinas
2 seconds to approve the Desert Breeze site plan. Any
3 further discussion?

4 (No response.)

5 MR. CONINE: Seeing none, all those in favor,
6 signify by saying aye.

7 (A chorus of ayes.)

8 MR. CONINE: All opposed?

9 (No response.)

10 MR. CONINE: Motion carries. We have one
11 public comment that's here, only if needed to clarify, on
12 Montgomery Meadows. Ms. Carrington?

13 MS. CARRINGTON: Thank you, Mr. Chair. The
14 last action item for the board this afternoon is
15 Montgomery Meadows Apartment and this, again, is an '03
16 tax credit allocation. The applicant is requesting
17 approval for a change in the site plan. This is located
18 in Huntsville, in Walker County.

19 Again, this change would have resulted in the
20 seven pre-application points being deducted. However,
21 there was only one other eligible applicant in this
22 setaside and it was the same developer. And so, we could
23 not say that anyone would be harmed by not granting this
24 change in the site plan. Staff is recommending that the

1 board approve this amendment.

2 MR. BOGANY: So moved.

3 MR. CONINE: We're not going to hold the motion
4 and the second because Mr. Gonzalez has left the room and
5 we do not have a quorum.

6 Ms. Carrington, would you like to fill in on
7 any of your Executive Director's report while we're
8 waiting on Mr. Gonzalez to come back?

9 MS. CARRINGTON: Only if you have questions.

10 MR. WITTMAYER: Ms. Carrington, would we have
11 an opportunity to go back to item 4, on the tax credit
12 agreement with Office of Rural Community Affairs? Or do
13 you want to delay that?

14 MR. CONINE: We can't take action on it anyway.

15 MS. CARRINGTON: Again, we don't have a quorum.

16 MR. WITTMAYER: When he returns --

17 MR. CONINE: That one can wait. He's back.

18 MS. CARRINGTON: Now, you know how important
19 you are.

20 MR. CONINE: Okay. Let's get a motion for both
21 of these approvals, for 03-220 and 03-221.

22 MR. SALINAS: So moved.

23 MR. BOGANY: Second.

24 MR. CONINE: Motion by Mr. Salinas, second by

1 Mr. Bogany, for the approval of both. Any further
2 discussion?

3 (No response.)

4 MR. CONINE: Seeing none, all those in favor,
5 signify by saying aye.

6 (A chorus of ayes.)

7 MR. CONINE: Motion carries. Anything else we
8 need to do today?

9 MS. CARRINGTON: No, sir.

10 MR. CONINE: Any other comments from the board?

11 (No response.)

12 MR. CONINE: Thank you for your diligence. We
13 stand adjourned.

14 MS. CARRINGTON: Thank you.

15 (Whereupon, at 12:35 p.m., the meeting was
16 adjourned.)

C E R T I F I C A T E

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IN RE: Texas Dept. of Housing and Community
Affairs board
LOCATION: Austin, Texas
DATE: November 14, 2003

I do hereby certify that the foregoing pages,
numbers 1 through 216, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Penny Bynum before the
Texas Department of Housing and Community Affairs.

(Transcriber) 11/29/2003
(Date)

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