

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

9:45 a.m.
Thursday,
March 10, 2005

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

COMMITTEE MEMBERS:

BETH ANDERSON, Chairman
SHADRICK BOGANY
C. KENT CONINE
VIDAL GONZALEZ
PATRICK GORDON
NORBERTO SALINAS

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER, General Counsel
BROOKE BOSTON
BILL DALLY
EDDIE FARISS
DAVID GAINES
TOM GOURIS
BYRON JOHNSON
MICHAEL LYTTLE
ROBBYE MEYER
ANN REYNOLDS
LEONARD SPEARMAN

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P R O C E E D I N G S

MS. ANDERSON: Good morning and welcome to the March meeting of the governing board of the Texas Department of Housing and Community Affairs. We have a nice crowd this morning. Appreciate all of you all being here.

With the Board's indulgence, I'd like to begin this morning by bringing some much due recognition for the executive director of the Department, Edwina Carrington.

Some of you may be aware, but many of you may not be aware that next Friday Ms. Carrington will receive an award from the State Agency Council.

This is the 2005 Outstanding Women in Texas Government. And Ms. Carrington is receiving the award for outstanding management in Texas state government.

This is a very competitive award. There were more than 40 nominations for this award. This Board and staff is very pleased that Ms. Carrington was selected as the recipient of this very prestigious honor.

In the application that was submitted to this State Agency Council, the application traces this history of Ms. Carrington's involvement with the Agency, particularly with her arrival in March 2002, when the Agency was beginning to emerge from some pretty dark days

that had discredited the integrity and the effectiveness of the Department.

As many of you know Ms. Carrington has been very busy since that time. She directed initially the Department through the Sunset Advisory Commission Review process, which the Sunset Commission in 2003 came out with a glowing report.

The Commission voted unanimously to continue TDHCA for an eight-year period and noted the Department's significant improvement since the last review.

She also, along with members of the Multifamily Production staff, instituted significant program improvements to the housing tax credit programs to increase transparency, public confidence in responsiveness to market needs.

Many of you all have been participants in that process.

She led the extensive reorganization of the Department where we reorganized by program function rather than by funding stream to eliminate duplication of effort, redundancy, tangled communications for both our staff internally and you as our customers.

We've reaped many benefits from that reorganization.

We implemented at the request of many of you all a single application allocation cycle.

Ms. Carrington's been very active in strategic outreach with a number of industry and trade groups relating to housing.

It -- has committed not only her time and energy but that of her staff to be more visible in the community among our colleagues to seek to improve housing conditions and seek to make sure that we have a very healthy housing industry in Texas.

Significantly last summer the Governor issued Executive Order number 36 dealing with Agency efforts on waste, fraud and abuse.

And she, with the leadership of our internal auditor, David Gaines, really came into the forefront with a very comprehensive plan for this Department around waste, fraud and abuse to address the requirements of Executive Order 36 and have been commended by the Governor's Office for the thoroughness of that more recent activity.

So all of these things and her personal integrity and the relationships that she's built with many of you all and with the Board members and with the larger community make her indeed for deserving of this award.

So I ask you to join me in saluting Edwina Carrington on her being given this award. Those beautiful flowers are from your staff.

MR. CONINE: Speech.

MS. CARRINGTON: Thank you.

MS. ANDERSON: Okay. As is our custom, we solicit public comment both at the beginning of the meeting and when agenda items are presented.

On a number of witness affirmations forms this morning, they all indicate that the witnesses would like to speak when the agenda item is presented.

Am I missing any witness agenda affirmation forms, or is there anyone who would like to speak to the Board at this point?

Okay. Seeing none, we will begin our agenda and call on witnesses as the agenda items come up.

First order of business is presentation, discussion and possible approval of minutes of Board Meeting of February 10, 2005.

MR. CONINE: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're

ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. I forgot to call the role. Thank you, Mr. Conine. It's right in front of me, so we will go back and call the role.

Vice Chairman Conine?

MR. CONINE: Here.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Mr. Gonzalez?

MR. GONZALEZ: Here.

MS. ANDERSON: Mr. Gordon?

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: We have six members present. We do have a quorum.

Item number 2 on the agenda is a presentation by the Attorney General's Office and discussion on Chapter 556 Texas Government Code, on political activities by public entities and individuals.

And I call on -- we're pleased this morning to have Kevin Hamby, who is an assistant attorney general in the Administrative Law Division, to brief the Board.

Thank you, Kevin.

MR. HAMBY: Madame Chairman, members of the Board, thank you for inviting me. My name is Kevin Hamby. I'm with the Attorney General's Office here in Austin.

As you know one of the requirements is to address the subject matter of the Government Code in lobbying versus public information sharing.

The TDHCA is a State agency under the rules and under the decisions issued by the Attorney General's Office.

What that means is that you have statewide jurisdiction, make final decisions about contracting and disbursement of funds and you receive appropriated funds from the Legislature.

Even funds that come through that are federal funds, once the Legislature gets a hold of them, they become appropriated funds from the State Agency's perspective, and so you're included in the definition under Government Code 556, which I believe has just been passed out to you.

One of the key things to remember -- and this

is speaking to people who obviously are usually very political people who have been involved in their communities and a lot of political affairs -- whenever you come to a State board, you change the nature a little bit of your position, and you become officers of the State.

As a Board member, because you were appointed by the Governor, you are an officer of the State, and so you are governed by Chapter 556, as are all your staff.

One of the issues to remember is the officer standard is that you are governed by this statute, and so you are required to read it, be familiar with it and make sure that you do not violate it.

One of the interesting points of it, it's a very shaky area and very gray area, because there's no clear-cut, bright-line test.

I refer to it as the Justice Potter Stewart comment that, I know it when I see it, because there really isn't any line that says, you have crossed over the line; at this particular moment you are now lobbying, versus being a resource witness.

In your role as a State agency you have to be a resource witness. They need your input. The Legislature needs your input. The difference is that you don't advocate in your role as an officer of the State.

And that includes in both very formal settings in the Legislature when you're asked to come and testify as a witness.

It also includes when you're running into a friendly legislator at a party -- and an unfriendly legislator, any legislator or staff member at a party or at some other event where you come in contact.

There are a few bright-line things in it. You're not allowed to use State-owned vehicles or State-leased vehicles for political purposes. You cannot use State property or funds for political purposes -- that would include lobbying.

And so that means if you come down here for one of these Board meetings, you can't go run over to the Legislature and also lobby people. If you're asked to be there as a resource witness you can do that.

If you're reimbursed for your trip down here that is using State funds.

You cannot as a board pay or reimburse for lobby activities. You can't pay a lobbyist, nor can you reimburse for lobby activity.

One of the interesting things -- and it doesn't necessarily apply to you as much, but it does apply to your staff -- the Chapter provides for termination of

anybody who violates these rules.

I know for some of you that may be a blessing to be terminated but that's a different question.

Since it isn't a bright-line test, I tried to come up with a few points. Also just for your information -- I'm sure Ms. Carrington has told you this -- we briefed your staff on this last week. Theirs is a little different, but it's essentially the same.

Probably the best test you can do, if you're asking yourself, am I lobbying here, or am I being a resource witness, is ask yourself if you could explain your position to a newspaper reporter, without sounding like you're doing some sort of feathering of your own nest and answer all the who, what, why, when and where questions, and you wouldn't mind seeing those answers appear on the front page of the newspaper.

That's the quick down-and-dirty because you have to think about it in a sterile environment that way.

Just some other things to be careful on, especially if you're appearing before a State legislative panel or a staff member who's asking questions, even if the question's antagonistic would your reaction be viewed as defensive or self-serving.

The problem with being an officer of the State

is that you're not in the position of advocating, you are providing information.

That's not as true to anybody who's in private business, trade industry groups, the legislators themselves. They can be very aggressive; they can be very antagonistic if they want to be. Toward each other they can make rather broad, sweeping statements.

But in your case if you're doing a presentation on behalf of TDHCA, is your information going to be looked at as, that's not what happened at all, this is what happened, type information.

That's all what you're trying to do. You're trying to convey: this is the set of scenario; this is the scenario that was here; this is the set of facts that we applied to it, and this is our answer.

Another thing that people fall into, because you know so much about this subject -- are you being responsive to the question asked?

Given some of the bills that are there now, if someone wants to talk about a rural cap, answer the rural cap question, don't go to the urban affairs question.

Am I being asked for or offering a personal opinion or a value judgment?

This is one of the biggest traps that people

who go and testify get into, because you'll give your presentation, you've gotten a nice scripted forum, and then someone asks you, is this a good bill or a bad bill?

And that's not your job to decide if it's a good bill or a bad bill. You refer back to questions of things -- our experience indicates that this would be a) to b), would have this impact.

You know, historically we see that this would happen if you'd applied this particular scenario. And those are the kind of statements that an officer of the State makes to the legislators.

They want to know your opinion, because you're experts in this field, because you're so involved in it.

But trying to avoid that will keep you out of the judgment position where a legislator who disagrees with you or anybody who disagrees with you may stand up and say, they're lobbying, because they are trying to push this bill. You're not advocates; you're neutral observers.

And part of that is, do you sound more like an industry trade group than a neutral observer?

I'm sure all of you all have been in positions where you have been lobbying for your trade group. In this particular case that's not what you're doing.

If you think that a program needs to be expanded that you're working on, you ask questions or you answer questions in terms of, we are unable to meet the needs of our mission because of these factors, whatever the limitations of resources are -- those sorts of things.

It's not, we could do so much better if we just had more money. It needs to be more specifically designated.

Finally be comfortable and confident, know your facts going in. You have a great staff that you can ask to support you.

And if you have questions that you think are going to be asked, or if you just have questions in areas that you don't feel you're comfortable in, get that information before you go over.

Don't ever hesitate to say, I don't know the answer to that, we'll get back to you, because that's the easiest answer that doesn't get you into any trouble and doesn't make you go into a speculation mode.

And that's as much as I'm going to bore you with, unless have questions.

MR. CONINE: I have a question. I notice you prefaced everything you said with the statement, on behalf of TDHCA, in other words, we're down here on behalf of the

Department.

As members of private industry appointed as board members, is there ever a circumstance where we could come down here on our own, pay our own nickel and lobby a particular bill or not, not on behalf of TDHCA, but on behalf of my own personal interest?

MR. HAMBY: Would it affect your TDHCA question? You do not lose your rights as a public citizen because you're an officer of the State.

What you can't do is come down and say, I'm Kent Conine, Vice Chairman of the TDHCA, and I care deeply about this issue.

MR. CONINE: No. I'm trying to create a line between --

MR. HAMBY: If you're doing homebuilder business, you can do homebuilder business. You just can't use your official position. You can't use any state-supplied funds.

MR. CONINE: But some of that homebuilder business might involve in the Department.

MR. HAMBY: Then you probably shouldn't, because it will be -- even if you don't announce that you're Kent Conine, Vice Chairman of the TDHCA, people will know.

MR. CONINE: No. I'd be down here on my volition, Conine Residential Group.

MR. HAMBY: I know. But if you're doing questions before a legislative body that would possibly impact your agency -- none of you are unknown quantities in the Legislature, so even if you don't announce it, it could be interpreted that you're down here on behalf of the Agency.

So if you think it's going to slide into this area, then you probably should be hesitant to do it or else use these same guidelines and do what is logical.

MR. CONINE: But I can come down here on my own and talk about school funding or whatever else I want to talk about.

MR. HAMBY: You can talk about school funding or any of these issues. You do not give up your rights as a private citizen when you become an officer.

MR. CONINE: Okay.

MR. GONZALEZ: So basically what you're saying if I want to come down with the Texas Bankers Association or an independent bankers association, I could come strictly on those banking issues.

MR. HAMBY: Yes, unless they slide into a multifamily financing package and what the banks can do

with it, you may have a problem. But you do not give up your rights as a private citizen.

MR. BOGANY: My question is if I come to Austin -- if I stay at home at talk about the issue, do I have a right to do that? Am I limited to what I say?

On Tuesday nights when I do my radio show, if I want to talk about tax credits, I want to talk about affordable housing, do I have a right to do that?

I'm not representing the Department; I'm representing something I did before I was even here. So do I have a right to voice my opinion there?

MR. HAMBY: Because this is a gray area you give up some rights when you become an officer of the state. You can't do business with this particular agency. You can't do a few things.

The question would be, if you heard it from -- somebody else was saying something that was on the other side of you on those issues, and you heard it, would you consider it lobbying -- is probably a good test.

If you're trying to influence the outcome -- we use the term, lobby, but it's really influence either positively or negatively the outcome of a piece of legislation.

MR. BOGANY: Okay. So if I am getting comments

from the audience in regards to certain House deals, I can't make a comment about that.

MR. HAMBY: You probably should not if it relates to this agency.

MR. BOGANY: So any time that somebody can call me and talk about a tax credit program -- it's a talk show, so I can't just say, where is my -- I can't initiate it, but can somebody call in and initiate the call?

MR. HAMBY: It's probably best during this short window of six months, that you ask your screener -- if you have a screener -- not to take direct bill reference information.

MR. BOGANY: My last question is if I get comments on different developments, because somebody may call in and ask me my opinion on that development, do I have a right to give my opinion on that development, whether or not it's a good project, it's not.

Do I have a right to say anything during that period of time?

MS. ANDERSON: A development that's pending a Board decision.

MR. BOGANY: Uh-huh.

MR. HAMBY: That's all we're talking about, so I didn't really think about that in terms of -- I mean,

the difficulty there is if you made statements that would be considered that you had bias before the Board meeting, that you indicated a preference not based on the facts, that is the difficulty.

MR. BOGANY: Thank you.

MR. CONINE: What about exchanges with staffs of either legislators and/or governors?

MR. HAMBY: Governors are not included directly, because they're executive branch, and this predominantly deals with the legislative branch.

You are a part of the executive branch, so that is an interchange between the Governor's Office and another division of the executive branch. And that's perfectly acceptable.

Legislative aides are considered to be part of the legislative branch. So any conversation you have with someone who works for the Legislative -- LBB, Sunset Commission, any of those type of agencies are part of the legislative branch.

MR. CONINE: Has this thing been updated recently, because I think you're putting a little different twist on what I heard six years ago when I got on the Board? Has there been updates?

MR. HAMBY: There have been some updates. But

the difference, I think, is it's being scrutinized more than it might have been in previous years. It's become a higher priority topic.

Again I'm advising you as lawyer. You can do whatever you want and take the chances.

MR. CONINE: That's great advice.

MS. ANDERSON: I have a question. What about a conversation with a trade association? It's not a legislator. It's not a legislative aide. It is a trade association.

What is permissible in terms of expressing, you know, opinion to a trade association about a particular piece of legislation?

MR. HAMBY: Well, if you're expressing it about a particular piece of legislation, that's a little dangerous, because people could be considered that you are -- you're not the instrument that's going to the legislator, you are lobbying to get your bill passed or not.

Again a gray area, because you're not directly talking to a member of the legislative branch.

At the same time if you're a public official, state officer or a staff member and you're at a trade association and you're encouraging them to contact the

legislators in a particular manner one way or the other, it could be seen as though you are seeking to influence that legislation, just by a different means.

And as Mr. Conine knows I'm very conservative about these things, and I believe there is a line. So this is conservative advice.

MR. BOGANY: So I can't go to a trade association that I'm involved in and say anything about any of the deals that are there at all.

MR. HAMBY: No. You can do any sort of factual presentation.

This is the knowledge I have because I'm on this board, and I deal with these issues on a monthly basis. And I have briefings, and I understand that this bill is passed. It impacts this agency because history shows us that it will be x, y, z.

MR. BOGANY: So I can do that.

MR. HAMBY: Oh, yes, because you can do that everywhere. You should do that everywhere, because you are a resource witness.

I call this talk, when I do it other places, resource witness or lobbyist, seeing the imaginary line, because it is kind of an imaginary line.

That's why I used the Justice Stewart quote

about pornography, you don't know what it is, but I know it when I see it. It becomes a very difficult question.

But if you ever decide whether or not you're issuing a personal opinion, just ask that who, what, when, where question.

If I'm talking to a reporter am I answering that, or am I saying, gosh, we could do so much more if we just had a little bit more resources.

Anything else? Thank you.

MR. CONINE: Thanks.

MS. ANDERSON: Thank you, very much.

MR. CONINE: Are we supposed to sign this, or what are we supposed to do with this?

MR. BOGANY: Do we need to sign this?

MS. ANDERSON: Yes. I think the forms that we have --

MR. CONINE: Kevin, what are we supposed to do with these?

MR. HAMBY: I didn't really look at them, but I believe you're supposed to sign them so that you can have them in your records, that if it ever comes up, that you had great legal advice from the Attorney General's Office.

And I want a copy of Kent's own signed picture in my records.

MR. CONINE: Can we pontificate on the great legal advice we had?

MS. ANDERSON: Okay. Thank you, very much for being here this morning.

The next item on the agenda is presentation and discussion of status report on alternative dispute resolution for 2004 housing tax credit applicants.

MS. CARRINGTON: Thank you, Madame Chair. This is an information item on status update for the Board.

You all will remember that in Senate Bill 264, all State agencies that were going through the Sunset review process did have put in their statute language that require the agencies to go through alternative dispute resolution and negotiated rulemaking.

The date that that bill was effective for the Department was September 1, 2003.

TDHCA went through some training with the Center for Public Policy Dispute Resolution at the University of Texas law school.

In November 2003 the Board did adopt an initial ADR rule that we put in our 2004 qualified allocation plan, our home rules and also our housing trust fund rules.

In March 2004 staff solicited comment on a more

comprehensive ADR rule from the 2004 QAP working group. On May 13, 2004, the Board adopted the proposed final ADR rule. That went out then for public comment.

Then on July 8, 2004, the Board did approve the comprehensive ADR rule for all those programs that I just mentioned within our Agency.

During October and November 2004 staff conducted mediation on two 2004 tax credit projects with developers at their request. There was a third request that we were not able to get to mediation.

Then in November 2004 TDHCA's alternative dispute resolution coordinator, who was Leonard Spearman, Jr., did complete the required 40-hour mediation course at the Dispute Resolution Center at the University.

So this is an update item for the Board. It was obviously the first time we had implemented such a process in 2004.

I think that you will be hearing from some of those who went through the ADR process at the end of the year last year that they found it a fairly unsatisfactory experience.

We wanted to, number one, report on what we had done, to the Board in 2004 and also tell you that as we begin this tax credit cycle for 2005, we are working on

some ideas and some concepts that we hope and believe that will help improve our ADR process for the public and for tax credit applicants.

MS. ANDERSON: I do have public comment on this agenda item. Mr. Mark Feaster.

MR. FEASTER: Thank you and good morning.

MR. BOGANY: Good morning.

MR. FEASTER: Madame Chair, members of the Board, Ms. Carrington, thank you for allowing me to address you this morning.

I also want to thank Ms. Carrington and the members of her staff for their willingness to participate in a meeting that was held by Mike Gerber for the Governor's Office a couple of weeks ago.

My name is Mike Feaster. I'm here on behalf of McGill Development, Hyperion Holdings and the Gardens of Texas.

We are the three developers that requested ADR for five of our applications in '04, not just for ourselves but for the communities that have shown their support by making trips to Austin to support us and by giving land, cash and in-kind services to bring these projects to their communities, also for the families and seniors of those communities that want and need affordable

housing.

We alone have 20 to 25 names on reservations lists for the three 36-unit developments that are affected.

The Agency's own general counsel told us at our pre-ADR meeting that the process was unworkable as currently structured, that no one that would represent the Agency would have the ability to make a decision, and furthermore they would not make any recommendations to the Board. He was right.

The participants in the meeting with the Governor's Office, which included representatives from the University of Texas School of Law, came to the same conclusion, that the process was flawed and unworkable.

Everyone agreed it needed to be fixed for the current application round and were willing and committed to working with staff to put in place a fair and unbiased system.

There was also a consensus that some things should be considered to fix the applications that were affected by the flawed and unworkable process this year. However the staff seems to be reluctant to make any recommendations to you.

We are asking that we in our communities not be

penalized by an unworkable process. You have the ability to right the wrong that occurred this year by granting either unused '04 tax credits or '05 tax credits for the five developments that we represent.

We've all made individual appeals to the Agency and Board over the past several months. Our appeals and experiences with ADR are well-known. We've decided as a group to simply make ourselves available for your questions. Thank you for your consideration.

MS. ANDERSON: Do you want to hear the other witnesses, or would you like to go ahead and ask questions if you have them, and then ask questions of -- there are two other witnesses.

MR. FEASTER: The other gentlemen are here just as resource. I think the idea was that if there are questions, all of us could answer those.

MR. CONINE: I'll just ask one brief question, I think. Have you reapplied for 2005 credits for your projects?

MR. FEASTER: Yes, we have.

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Other questions?

Thank you, very much.

This is a report item, if I'm correct. No

action is contemplated by the Board on this item. Does anyone on the Board have questions of Ms. Carrington or other members of the staff?

MR. CONINE: We have two other witnesses on this?

MS. ANDERSON: Brian Cogburn and George Hopper. They show themselves as resources.

MR. CONINE: Okay. I'm sorry.

MS. ANDERSON: And if they'd like to speak, we'd be happy to hear from them.

Item 4 on the agenda is presentation, discussion and possible approval of housing tax credit items. Ms. Carrington?

MS. CARRINGTON: Thank you, Madame Chairman. We have two requests for applications that involve material changes.

The first one is Sun Meadow Apartments, which is a 1999 tax credit development. This will look very familiar to you all. This is one that you looked at in December 2004.

The Board tabled the request at that time. The situation on this particular development was that the requirement in the QAP was that 12 SEER A/C units be put. This one had the 10 SEER units that had been put in.

Obviously the development is constructed. It's completed. The A/C units are installed. This has been a development that the syndicator did have to replace the general partner.

I believe what the Board instructed in December was, rather than to just agree with going from the 12 SEER to the 10 SEER, to come back and offer us something.

So indeed they have offered something. They're asking to be able to leave the 10 SEER air conditioners in, but they are committing to add solar screens, which should reduce the household heat load.

This transaction, as I said, is built. It's occupied. It's in Alamo. It would have received an award even without the three points that were garnered for the storing item.

So the Department is requesting that the Board grant a waiver on this particular requirement for the QAP for that year.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: We have an individual to speak on this agenda item. Simon Fraser.

MR. FRASER: I'm here only if the Board has questions. I'm here at your service.

MR. CONINE: I've got a question.

MS. ANDERSON: Okay. Mr. Fraser, will you come up?

MR. CONINE: Are the solar screens in?

MR. FRASER: They're not.

MR. CONINE: How quickly will they be in?

MR. FRASER: The bid is in, and the contractor's ready to move forward. We're proposing completing the work by May 31.

We have also received an initial TDHCA inspection of the property as part of the 8609 process. There are a couple of remediation items, moving thermostats and counter heights and that kind of thing.

I propose that on the reinspection of those items that this work be inspected and signed off as part of the 8609 process.

MR. CONINE: Thank you, very much.

MS. ANDERSON: Other questions? Thank you, sir.

We have a motion on the floor. Is there a discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say

aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: Second item for your consideration on material changes, the Lansborough Apartments. This is a 2004 tax credit allocation which is located in Houston.

They are changing the size of the site. They're adding 7.62 acres to the original 19.5 acres.

The reason for this coming to the Board is because it changes the density by more than 5 percent, adds more land to this particular transaction.

There are requesting this because this would provide better ingress and egress in and out of the property, better access.

Also they are increasing the size of the two-bedroom units from 950 square feet to 960, and the three-bedroom units from 1,100 to 1,200.

Staff is noting -- if you will note at the recommendation down at the bottom -- that because of this change they would have lost their seven points, which were their pre-application points.

However it would have still taken them to a score of 150, and the application would have still been competitive.

There is a last sentence in that paragraph on the staff recommendation that should be struck, because the Real Estate Analysis Division has completed their analysis of this, and this change is appropriate as far as they're concerned. So staff is recommending approval.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion on the motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The next item for the Board's consideration is the approval of the 2005 Rural Rescue Policy.

The Board will remember that in March 2003 you approved the first Rural Rescue Policy. This is for RD

transactions that are experiencing foreclosure or loan acceleration.

What it allows these applications to do is come in and apply to the Agency if it is not during an application round.

These developments in many instances don't have time to wait for an application round. So if it's a period of time when the round is not open, Rural Rescue Policy facilitates or allows them to come in and apply to the Agency.

In the first year we did not use the policy, in 2003. We have used it in 2004. We've had four applications that the Board had approved using this Rural Rescue Policy. The total on those has been \$185,178.

I will remind you that if we do make awards in 2005, they will come out of the 2004 allocation, and more specifically it comes out of the rural regional allocation and then's it the USDA-RA allocation also.

We will only give awards to a total of \$250,000 out of the 2006 allocation.

I might note for the Board that the changes from the 2004 to the 2005 policy are fairly minimal. We did provide a copy of the black-line.

We did eliminate on page 2, item number 7,

coordinating with the Office of Rural Community Affairs, and the reason we did that is because these move so quickly that in many instances we don't have an opportunity to coordinate with ORCA.

Then last night when I was reading this, I noticed that in the paragraph below we've still left ORCA in. So we will clean that up, and we will delete that. Then the rest of the clean-up was changing the citation in the statute and changing 2004 to 2005.

MS. ANDERSON: I have a question about the comment that you just made about the sentence on ORCA below, I think when we've got tight time lines, it's one thing to have them be another gate in the review of the applications.

But I think it's quite another to invite them to the EARAC meeting just to have the representation at the EARAC. That doesn't seem to slow us down. Their participation at that meeting might be helpful.

MS. CARRINGTON: I think there's probably a reason my staff left that in there. It's probably right. Thank you.

MS. ANDERSON: Okay. There is public comment on this. I have a letter which the Board's received, if I might read part of it into the record. Do we want public

comment now or after a motion?

Mr. Johnson?

MR. JOHNSON: I'm Sox Johnson with Rural Rental Housing Association to address this Rural Rescue problem. Congratulations to Ms. Carrington.

I have just passed out a couple of suggestions. We appreciate the Board's support of this program since we started it. It did take a little while to get it cranked up. We did. We think the program has worked quite well.

We do have two other suggestions. I've discussed this with the Texas Rural Development Housing people as well as a number of our developers that have expressed interest in this program.

We feel that there are two things that could strengthen the program and make it better. One of those relates to eligibility.

We're suggesting that you add a paragraph 2 e), which would -- "an at-risk development that is adjacent or within the same market as an otherwise eligible Rural Rescue development to be consolidated and transfer process with Texas RHS and form a single new ownership entity for preservation purposes."

What we're saying, we've already run into two

of these instances. There's like a 24-unit, and the second phase had 30 units. Well, they're about to foreclose on one of those phases, but the other one they aren't.

It is in need of rehab. But now you have to keep it. What we are requesting you consider in adding this is that you would be able to merge those two, because you're coming with a new entity.

They'd simply be folded in and now become, instead of a 20- and a 16-unit, they'd be a 36-unit. They'd come in one time for tax credits instead of twice: one under the rescue part, and one under the normal allocation. We think that makes sense to do that.

So that was one of the issues. You want me to go to the second one, or you got some questions on that one?

MR. CONINE: I have a question on that.

MR. JOHNSON: Okay.

MR. CONINE: You are the epitome of the nose under the camel's tent almost with that, because it seems to me here -- I can understand the phrase "two adjacent."

What I can't understand is the language that says, "or within the same market area." That tends to be a grab.

MR. JOHNSON: That may be a little bit more. But there are some of them that may be located -- on one block you've got a project, and then two blocks away, you've got some more.

MR. CONINE: But if you've got separate ownerships.

MR. JOHNSON: And they'd be separate ownerships, developed at different times. This is just an opportunity to merge them.

MR. CONINE: This is for rescuing that one project that's in trouble. It's not intended to be a facility to bypass the normal application round product and expansion of, say, one project into two --

You can go to a small rural town in Texas and buy up four different project in the town and meet this definition. Let one of them go bad, and then all of a sudden you've got automatic credits.

I think we need to prevent that and make sure people go through the same process that the other folks have to go through.

Adjacent to, where you have a phase two and a phase one situation like you described, I can have some sympathy for.

MR. JOHNSON: Well, that was the key one. But

I do know there are situations where they're on different lots, different locations. But I was still thinking within the community. That may be larger than it should be, "in the same market area."

I was thinking within that close proximity there. Again we're only saying you let do that if that second phase -- you've got one that's rescue, and the second phase is at risk.

It would have to be classified as at risk, needing rehabilitation, everything, before you could ever couple the two.

So if you had one phase that was in good condition, not at risk of being foreclosed on or deteriorating services, then you wouldn't be able to couple them, if you had a good project trying to phase it with a rescue.

But both of them would be at risk with what we were suggesting.

And certainly we could live -- we just think this would be a good suggestion to save some projects out there that currently are being foreclosed on as a result of not being able to couple it with another one in the same area, because of the ownership entities.

That question's on that one. Okay.

The limitation on allocation -- I know now of six applications that are in the process of being worked right now that would exceed \$300,000. So we're suggesting that be raised at least to \$500,000.

In fact I'm not sure there's even a need for a limitation on the allocation, because the working thing between the Agency and Rural Development, as I think Brooke could verify this, is these are always the top priority for processing we've all agreed on anyway.

So they could just go right on through and process under that policy, if there wasn't. But if there is, I feel it needs to be increased.

Another reason, syndicators are getting -- they look at these extremely difficult -- with great difficulty if it's less than \$100,000.

When we set that \$250,000, you asked me the question of what should we put in there for, I thought, well, we could three or four projects. They might be \$40-, \$50-, \$60,000. That's kind of how we came up with the \$250,000 originally.

But it's very difficult to do those now. You need to get close to \$100,000 for it to be attractive to a syndicator. So that's the reason.

We certainly would like to see it raised to the

\$500,000 at least. Again we wouldn't object if you just removed the limitation on allocations.

MR. CONINE: Let me ask another question, because again I feel like we're creeping here a little bit.

What is to keep -- I'm being cynical, okay? I want to admit that up front.

But what is to keep someone who, say, is at the tail end of maybe their 15 years or 10 years, and the syndicator has decided he doesn't want to fund the negative anymore, just for whatever reason, what is to keep a rural project management of that project from going into default and coming in automatically qualifying here?

How do we know that we have the best management possible going on before it gets to this process?

MR. JOHNSON: Well, the primary way is -- most all of these before Rural Development's going declare that it's a rescue and state to the Department that this is a rescue project, qualifies in the sense of being eligible and everything as a rescue project, is the real control on that.

The owner -- and all of these just about, they're going to be changing the entity, ownership. So you've got to change of ownership, entity, when you do

these rescue deal.

MR. CONINE: From who to who?

MR. JOHNSON: It's usually some new party that's taking over. It may not be in every case. It may be a current owner has one that's about to be foreclosed on and may take a chance on it.

But usually if one's already been foreclosed on or something, you're changing ownership in basically all of these.

So I don't see it as something that Rural Development or that your staff would accept somebody that's just trying to circumvent the deal with poor management and wanting to keep it on --

MR. CONINE: Again if we increase the pot, though, of money that's sitting there, and it becomes -- I know each one of these has to come to the Board.

I guess it just creates a artificial lid on things that might take the easy route. I tell you I'm being cynical here.

MR. JOHNSON: Now the cap, the \$250,000, is not per project. It's the total dollars we've got in this program.

MR. CONINE: I understand that. And I would suspect that this Board would have the ability to waive or

amend that later on in the process, rather than doing it up front.

But again I don't want to create an atmosphere here that would necessarily say that here's the easier way to make sure you get rehab credit, and you don't have to go through the process, as opposed to going through the process along with everybody else.

As we expand the scope of what we're doing here, I have concern again because they're smaller projects in rural Texas, that it could unnecessarily harm others that are in the competitive race as well.

I understand for the need of rescuing a mortgage in default. But if you have six bad months and miss three payments on a mortgage, it's impossible to catch up just through ordinary circumstances more than likely.

And for us to make sure that that project is having the best management available at that time is a filter that I want to make sure that we understand and feel like if Texas RD is declaring them rescue, I want to make sure they understand, I guess, the criteria of management that we would expect here at TDHCA.

I'm just thinking out loud with no premeditation obviously.

Ms. Carrington, from your perspective you do hear what I'm saying? Do you think there's enough checks and balances in the system at this point?

MS. CARRINGTON: I think that we feel good with our definition about who qualifies. My concern, I guess, would be -- of course I hadn't seen this before today.

We've had the policy in place for '03 and '04, and I think we've only used up about \$185,000. Of course if we increase the amount and we don't use it, it just stays in that pot for '06.

I would have a concern, I think, with the language that you did, Mr. Conine, on the same market area. If it's a property that's adjacent, I think there can be a good argument made that they come in together.

But say, market area could be across town. And I think that that would be a concern for us.

MR. CONINE: If it is adjacent I would want it to be the same ownership. I don't want somebody to be able to buy the project next door and roll it into the tax credit deal, just because the one's next door is bad.

MR. JOHNSON: My have the same general partner, but they may have been syndicated differently. They may have different legal entities.

MS. CARRINGTON: What I heard you say, Mr.

Johnson, was another phase. So it's a phase one and a phase two it will typically have the same general partner, but may very well have a different syndicator, but we're still looking at the same ownership.

MR. CONINE: Could we figure out some language that would provide for that to happen? Because I don't think this language is what we need, but I don't want to hold up the policy.

Here comes Brooke to the rescue.

MS. CARRINGTON: May we ask Ms. Boston --

MS. BOSTON: Do you mean regarding the ownership?

MR. CONINE: The situation he described where he is going to have two separate legal partnerships with different limited partners but maybe the same general partner.

MS. BOSTON: Well, actually under the credit program for it to be considered one application, really that would be almost deemed as a scattered site, and it's really got two parcels.

But it would have to be structured as one ownership and financed as one financing plan, or else it's not considered one application under code.

So I would advise that we continue with that

policy and not encourage dual applications that are not deemed as one application under one submission. And if that's the case then they would have to be packaged together.

MR. CONINE: Here's probably a little bit of common sense that can be applied to this.

If you have a second phase like he described, with a different loan on the second phase, different legal entity ownership between the two phases.

But there's one clubhouse, and they cross-utilization easements in place, and so forth, it's obvious what's going on. That's a situation that we can describe in a definitional sense to be able to be included in this policy.

Whereas they're buying one next door that's got separate ownership and it's got its own clubhouse and its own leasing thing, then that's a whole different deal. Do you understand what I'm trying to get to?

MS. BOSTON: I do. I just think as they're coming for the next credits, then at that point they're both going to be combined even if the before the new credit allocation, they were two different ownerships.

Once they get the new allocation of credits they should be one deal.

MR. CONINE: Yes. I'm okay with that.

MS. BOSTON: We can add language that would address that.

MS. CARRINGTON: They'll come in as one application.

MR. CONINE: Shall we table this item to give staff a little time to work out the language. And I bet before the end of this meeting, we can probably have that represented. We can come back to this.

MS. CARRINGTON: We can come back to this. We'll have some language for you.

MR. CONINE: Move to table until later on in the meeting.

MR. BOGANY: Second.

MS. ANDERSON: I assume we're ready to vote. All in favor of the motion to table?

(A chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

MS. ANDERSON: The motion's tabled.

MS. CARRINGTON: With the Board's indulgence, I'd like to return to agenda item number 3 on the board agenda.

This you will remember is the ADR topic. We

had three witness affirmation forms for this topic. Only one person spoke.

It's a very important topic for the Department, and I think perhaps the other two witnesses who had signed witness affirmation forms would like to address the Board.

I'm going to ask the Board's indulgence that we hear their testimony.

So with that said, Mr. Brian Cogburn?

MR. COGBURN: My name is Brian Cogburn with Hyperion Holdings, speaking on behalf of Essex Gardens Apartments, L.P. It's a 2004 project in the city of Sealy. Essex Gardens scored the minimum score to receive approved tax credits in Region VI in 2004.

We believe that the process did not work, that there some inequities in how applications in Region VI were treated.

If the rules had been followed as strictly as were written in the QAP, there would have been more than adequate tax credits for Essex Gardens.

This documentation was presented to the Agency in October. We never got the ADR. We asked for ADR. We kept trying to get ADR.

We even asked for a Board member to attend the ADR, so you would have independent verification of what

all was being said.

I think that the documentation and the facts that have already been presented to the Agency are undeniable and very clear-cut.

I can answer questions for you. To answer your question, Mr. Conine, about reapplying, the applications reapplied is not under the same conditions it was applied for last year.

It's much smaller; it's 100 percent tax credits. The city is very much behind 2004 and really wants market rate units. It's got 600 new jobs that just moved into that area, and they don't have a place to live.

The community feels like a combination of market rate and tax credit units are really what they need for that community.

Under the current QAP we don't have the luxury to apply like it was applied in 2004. It's just not there. It wouldn't fit the rules.

So I would ask that you all reconsider ADR. The fact that we made requests, we tried to get there, we tried to have resolution. The process was unworkable.

This is a really great time to address it. I would ask for you all to do the right thing and take action and approve 2005 forward commitments for the ADR

applications that are still active in the process.

MS. ANDERSON: Questions.

MR. CONINE: Did you say whether or not you had applied to 2005 or not?

MR. COGBURN: I did apply for 2005. It was not under the same circumstances as 2004.

MR. CONINE: Right. I understand. The QAPs are different.

MR. COGBURN: Yes. Everything is different on it. And it's a whole different set of rules, facts and issues.

MR. CONINE: But you have reapplied.

MR. COGBURN: I officially reapplied. I did not reapply as the city wanted me to reapply. They were not as pleased this year as they were last year and I was at the city council meeting last night getting a resolution. I was at the city council meeting a month ago getting the resolutions and discussing what was going on.

MR. CONINE: Are they supportive of the project? Did you get your resolution?

MR. COGBURN: I got the resolution.

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Mr. Cogburn, I have a copy of a letter that is dated March 1 that you wrote to Ms.

Carrington.

In the comments you just made and in this letter you intimate inequity in the way the applications were evaluated in Region VI. But it's very vague language both in your comments that you just made and in the letter.

Specifically what is your issue with how evaluations were made in Region VI? Be really specific.

MR. COGBURN: Let me be very specific. I'm going to wing it, because I don't have anything in front of me.

The major issue was there was application that was submitted with ineligible building types for \$1.2 million tax credits. It did not have proper one-, two- and three-bedroom unit type dictated into the QAP.

It was submitted in February with that unit mix. It was underwritten with a different unit mix in July.

The QAP specifically says, tax credit developments submitted with an ineligible building type would not receive a tax credit allocation. It's very black and white and cut and dry.

My other issues are community participation and how those issues were treated. In Sealy I have no

neighborhood organization.

The quantifiable community participation was very narrowly interpreted in 2004. To offset that I had a city resolution.

I had every member of the council and the mayor. I've got the state senator, the state representative, the school board superintendent, the president of the Chamber --

MS. ANDERSON: Did you receive points for your state representative letter?

MR. COGBURN: Yes.

MS. ANDERSON: Keep going.

MR. COGBURN: I received two points on my community participation versus my competition, which received 12 points. My competition is a residence council -- a corporation that's not in good standing with the State of Texas.

MS. ANDERSON: In an urban area as opposed to an exurban area.

MR. COGBURN: An urban area.

MS. ANDERSON: Okay. Did you receive exurban points on your application?

MR. COGBURN: No, I did not.

MS. ANDERSON: Why was that?

MR. COGBURN: Because the way the QAP was written my community was not big enough to receive exurban points.

MS. ANDERSON: Okay.

MR. COGBURN: It's community that's growing. It has tremendous need. Not receiving exurban points, I have a hard time justifying that.

MS. ANDERSON: But it didn't meet the definition of QAP for exurban.

MR. COGBURN: It didn't meet the definition of the QAP.

As I told you, you kind of caught me a little bit cold. Yes.

MS. ANDERSON: This is an important issue for the Department, but we have to deal with facts.

MR. COGBURN: There is another issue. In the Board meetings in July there was much discussion about super neighborhoods versus non-Super Neighborhoods.

In one Board meeting there was a blanket approval for Super Neighborhoods to be approved for quantifiable community participation.

One of my competition applications received 12 points on that approval. Their corporation was not in good standing. They were not a Super Neighborhood.

At the next Board meeting later there was another super neighborhood discussion, and the Board denied it as a quantifiable community participation.

I don't see the consistency in that situation. Either it is, or it isn't. The way I read the definition, it probably is not.

So there's numerous examples. You know, I've got the documentation. Ms. Carrington has the specifics of what you're asking for. I'm happy to go through it, and I think it proves itself up.

MS. ANDERSON: Any other questions? Thank you, very much.

MR. COGBURN: Thank you.

MR. BOGANY: I have a question. He said that we approved a project that was of a certain mix, and then they turned around and then later on they changed it. Does somebody know -- can I get somebody from staff to give me an idea of what's --

MS. CARRINGTON: Yes. We can address that.

MS. BOSTON: I didn't hear your question, but I'd be happy to answer it.

MR. BOGANY: He made a comment that there was a project that was earlier that we approved a certain mix in the development. Then they turned around, and they

changed it. Then we approved it again or disapproved it.

Can you make some comment -- you or Ms. Carrington -- on that? I don't remember what project that was. Do you know what he's talking about?

MS. CARRINGTON: I will start with a response, and then I will turn it over to Ms. Boston.

Mr. Cogburn and I met two and a half weeks ago, and he did go through his issues and his concerns with me. He did give me a packet of information related to the comments that he has just made.

And my staff has been going through these issues looking to see what information we have and to be able to explain one way or the other what we did or did not do.

At least on two of his comments I know that we have the answers. We have the answer on ineligible building type. We also have the answer on scoring of the letters, both positive and negative.

One of the things he did bring up in this letter that he wrote of March 3 was the fact that there was one letter of opposition that did receive a negative one. We can address that for you all.

MS. ANDERSON: I think maybe -- if I can make a suggestion here. We do have one more witness that we want

to hear from on this topic. But I think some written response to Mr. Cogburn about these issues and perhaps copy to the Board is the appropriate way to address these particular issues.

MS. CARRINGTON: We will do that.

MS. ANDERSON: Great. Thank you.

Mr. Hopper?

MR. HOPPER: Good morning. My name is George Hopper, and I'm with the Gardens of Texas.

As Brian, I didn't come today prepared to speak. I've been here before and have been prepared and didn't want to come across or feel like I was being argumentative in any way.

But in the process of the ADR we were talking about three applications that we had: the Gardens of Tai [phonetic], the Gardens of Burkburnett and the Gardens of Maybeck [phonetic].

These were in their region last year, leading scores. It's not like we're here talking about something that we're trying to resurrect or to bring up to standard. We had high scores in those regions.

The instance of Burkburnett is we went through the process of ADR when we were able to talk about. We never really had the chance to bring up points to discuss

like I am today.

I know in the situation of Burkburnett we discovered that we had points taken away with no notification, in that I mean in the process of the AG opinion and going through that process when points were changing and being rescored and what-not, we could not figure out where we had lost points.

Then we finally found that out. We were never notified by that, and we did not have the chance to be able to talk about that with the staff.

We also had information we talked about in the July meeting with the Gardens of Maybeck, where we brought up the question -- underwriting. It was the top score in underwriting, and it was found financially infeasible.

We brought in documentation and information which were not allowed, because it was told that it would be unfair to be able to do that.

But in talking with them, discussing the situation with Mr. Cogburn and also with Mr. McGill, it also came to fact that in prior instances in applications, there were instances where they were allowed to change information.

The other thing that we found in Maybeck that in the process of preparing ourselves for ADR, that the

underwriting staff did not use funds that had been awarded or granted by the city.

Yet we were not able after the fact to be able to have those funds brought into the underwriting mix. We were also in the discussion at ADR that it was too late to talk about that and to bring that up.

We also had -- Tai and Burkburnett that the staff agreed were in fact -- the people in ADR offered to go to the Board and discuss back to that. However, we never heard an answer back until Ms. Carrington two weeks ago gave us a formal answer to that question.

Again I wasn't prepared to come and talk today. I'm going a little off of notes and the top of my head.

MR. CONINE: Was Ms. Carrington's response, was it written or verbal?

MR. HOPPER: Verbal.

MR. CONINE: Did I hear you say you had not submitted a written -- where we think we might have been wrong?

MR. HOPPER: We -- when we asked to go to ADR, Mr. Spearman asked us to come down informally and sit down and talk to try and resolve the situation.

At that point in time -- in the email we were told we could sit down and try and resolve these issues.

And these are the issues that I talked about. There's a few more that just don't come to mind right now.

But we weren't really able to come into consensus or able to utilize the fact that -- as an example of something had been allowed in the past and a precedent set, how come it's not allowed for us.

We don't want anything special, we just want the treatment that everybody would have.

MR. CONINE: I guess I would suggest to you that if you can't do it informally verbally, then the next best step is to do it written. I'm sure the Department will write you a letter back.

I would suggest you do that right now, so at least you can have on a piece of paper what your position is and what the Department -- we can then, as the Department, give you our position.

MR. HOPPER: And respond back to us.

MS. ANDERSON: Any questions? Thank you, very much.

MR. HOPPER: Thank you, ma'am.

MS. ANDERSON: I know for the record that we had one more witness to speak on the Rural Rescue. When we come back -- do we want to do it -- I think maybe it's best to do that when we take it off the table when staff

brings us back some language a little later.

Are you working on that? Okay. That's what we'll do, we'll give you permission to speak when we take the item back off the table.

So on to 5 a), please.

MS. CARRINGTON: The next item for the Board's consideration is --

VOICE: Excuse me. I believe there's one more public speaker on ADR that's signed up.

MS. ANDERSON: This speaker did not sign up initially this morning.

When you want to speak to this Board, and I think we're -- we work really hard. We devote -- those of you that come to these meetings know we devote a lot of time to public comment.

But I ask you to complete a witness affirmation form when you come to the morning so that we have that at the beginning of the meeting. Thank you.

MS. CARRINGTON: Item 5 is inducement resolution to issue multifamily revenue bonds for the 2005 private activity bond rating waiting list. Your book has seven applications that we would be inducing today.

One of these has been withdrawn, so we are requesting that you induce a total of six applications.

There's a resolution related to this; it's 05-016.

These six applications total \$74,500,000. These applications will sit at the bottom of the waiting list for 2005.

Currently right now TDHCA doesn't not have any other applications that will be sitting at the bottom of the waiting list.

So if indeed the Board does approve these inducements, then when that amount becomes available -- and we think that will be very quickly -- then the Board will be asked to review these to approve the transactions.

Behind your second green sheet is a list of the developments that are being requested to be induced.

I would like to bring to your attention the first one, Marquee Ranch, is the one being withdrawn.

The fourth one down is Prairie Ranch which will be located in Grand Prairie.

If you'll notice over on the right staff did make a note that this application last year was denied issuance by the local issuer, and I did receive this morning a resolution from the city council of the City of Grand Prairie that is a resolution opposing the issuance of housing tax credits to ARDC G.P. West, Ltd., for the proposed Prairie Ranch multifamily project.

I did want to bring that to the Board's attention.

MR. SALINAS: Is that the negative, a resolution against the --

MS. ANDERSON: Yes, sir. It is a resolution opposing the proposed Grand Prairie Ranch multifamily project.

So I will of course remind the Board that what you're doing today is inducing.

Then all of these will or will not come back for approval of the Board for the issuance of the bonds and the issuance of the tax credits once the Department has done a full evaluation and analysis. So what you're doing today is inducing.

However, Prairie Ranch, which is 2005-031, does have a resolution from the city opposing this inducement by the Board today.

MR. SALINAS: What happens to that?

MS. CARRINGTON: The Board takes this into consideration as you are making a decision as to whether you will induce all six of these or not.

MR. BOGANY: I have a question about the Alta Northgate. Where exactly is that? I have the serious issue of voting on something, but I don't know where it's

at. I don't know what the concentration issue is. We've got so many projects in Houston right now.

MS. CARRINGTON: 17111 Hafer Road.

MR. SALINAS: I have no idea where that it. I'm just a little concerned about voting for something, putting it on the list, in an area that may be oversaturated.

MS. ANDERSON: Ms. Meyer, would you tell us where this project is proposed?

MS. MEYER: Robbye Meyer, multifamily bond administrator. It's in northwest Houston, just west of 45 on 1960, about three miles down the road from where Sugar Pines was a couple months ago.

MR. SALINAS: It's close to Sugar Pines.

MS. MEYER: It's about three miles away.

MR. SALINAS: So it's still in that heavily saturated apartment area.

MS. MEYER: It's in that area. Yes, sir. I don't know. I just have a problem with us continuing to put these projects in these overconcentrated areas.

Where you may be an area that really needs tax credits where there are no apartments at all, and then we're giving them to another project.

I don't know. It just seems like we've got too

many in that general area. Sugar Pines, I guess, got pulled off. But that area's heavily concentrated in apartments.

Truly before I could vote on them, I would like to see the market study and understand what's around it and all that. I'm assuming staff has already done that.

MS. MEYER: We haven't gone that far yet. But the developer is here --

MS. ANDERSON: We'll get our public comment in just a minute.

MS. MEYER: -- if you'd like to -- he can probably tell you a little more about what they've done so far.

MR. SALINAS: I would like to hear, because I just don't see how any of these projects are making any money when you've got a soft market. I really, really don't. And then you've got so many other apartments in the general area.

MR. CONINE: Ms. Meyer, on the one we got the city council resolution opposing this morning, I guess, which would be the Prairie Ranch one.

MS. MEYER: Yes.

MR. CONINE: One of the whereases here says, "The City finds the current proposal inconsistent with

City plans for the area and existing infrastructure is." Do we know what the zoning is currently for the piece of property that this is subject to?

MS. MEYER: The zoning is multifamily.

MR. CONINE: So this is carefully worded to say that the City might plan on changing it sometime in the future, but currently it's zoned multifamily.

MS. MEYER: Yes. It's currently zoned multifamily.

MR. CONINE: Do you have any other information from the city that would indicate what their comprehensive plan or anything like that at this point? Or is it a little early?

MS. MEYER: Well, we don't have it. We have it from the previous -- I didn't pull that out. I could run back upstairs and get it from the previous --

MR. CONINE: The previous.

MS. MEYER: Well, when they submitted their 4 percent application for the tax credits on their local issuer transaction.

MR. CONINE: Oh, okay.

MS. MEYER: We may have consistency.

MR. CONINE: Is the sponsor developer here?

MS. ANDERSON: Yes. We'll take that in public

comment.

MR. CONINE: I'll withhold that for later.

Thank you.

MS. ANDERSON: What is the Board's pleasure on this.

MR. CONINE: We've got some public comment. Before we make a motion, we have to do that.

MS. ANDERSON: Mr. Wright.

MR. WRIGHT: I'll defer to Hal Thorne.

MS. ANDERSON: Mr. Thorne.

MR. THORNE: Thank you, Madame Chairman, members of the Board.

For the record my name's Hal Thorne. I'm an attorney by license, but in the last ten to 15 years I've been involved heavily in affordable housing, infill housing development and multifamily projects, including senior projects, TDHCA projects, et cetera.

I am the principal and the applicant for ARDC, the entity that's made this application. We have a building permit. The property is zoned. We've met all of the requirements of the local municipality.

The resolution of which I have a copy is carefully worded. The City of Grand Prairie through its mayor -- they're not opposed to this multifamily project,

because it is entitled. They're opposed to the financing.

I've had several meetings with them. We've been to two city councils, two PMZs. The PMZs have unanimously approved this project. I don't want to bore you all with any detail.

There may be some questions. I'll be glad to answer your questions.

We're asking you to allow this inducement to go forward so that we can fulfill the application process and fulfill the requirements of the QAP and present our application. I think it's due tomorrow.

MR. BOGANY: I have a question.

MR. THORNE: We have a full set of building plans, and we've spent over \$500,000 in engineering, architectural work and the presentation we would like to make to you.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: I have a question. What part of the financing are they opposing? I don't mean details, but I'd like to know what part. Is the city guaranteeing these funds? Why would they care how you're doing financing?

MR. THORNE: They are -- and I hate to throw these kind of words out -- but there's an opinion that

this is a low low income project, that it's possibly Section 8 vouchers and people of low income will be the tenants of this project.

It's not a low low income project. It's a low moderate income project.

MR. BOGANY: What does that have to do with financing?

MR. THORNE: It doesn't have anything to do with it. It doesn't have one single bit of influence or impact on this project.

The City of Grand Prairie -- I hope you'll allow me to proceed with the application process -- has probably the strictest multifamily zoning ordinance in the State of Texas.

Sixty percent of our units have to be garages. We have to have carports for 70 percent of the units. They have to be 100 percent masonry.

We've met all of their requirements, all of the development code standards. We've met every obstacle that they presented to us, including their down-zoning of our property from 24 units an acre to 14 units an acre.

We've been able to make this project work, and it's ready to go.

MR. BOGANY: Thank you.

MS. ANDERSON: I have a question.

MR. THORNE: Yes, ma'am.

MS. ANDERSON: I'm asking this question this way for a reason. What would Tarrant County HFC tell this Board was their reason for denying the local issuance? What was their reason in writing to you? I'm not asking for your --

MR. THORNE: Yes, ma'am. I don't know what their explanation would be. This case went to Tarrant County. The motion was made and seconded, but they didn't vote on it in the December meeting.

We were contacted immediately that afternoon and said that the matter would be presented again in the, I think, it was January 12 or January 15 proceeding.

We were led to believe that everything was in line, that we would be approved. And at that meeting it was denied. I can surmise, but I can't tell you what was in their minds.

MS. ANDERSON: Is there discussion in the Board meeting minutes of the HFC?

MR. THORNE: I think there probably is some discussion. J.D. Johnson made the motion to approve. Mr. Brooks seconded the motion. We can probably acquire those minutes and present that with our QAP, but I don't believe

we have them here with us today.

MS. ANDERSON: Next question. Are you the developer? In the TDHCA there have been a number of other 4 percent deals in the City of Grand Prairie. There were a couple of 9 percent deals last year or the year before.

Are you the developer of any of those recently approved projects?

MR. THORNE: Yes, ma'am. The Wright Senior Apartment project, 9 percent deal. It's in the City of Grand Prairie. It's a wonderful project. We've released all the units that we've got on the ground available, and it's just doing magnificent.

MS. ANDERSON: Thank you. Are there any questions? What is the Board's pleasure?

MR. CONINE: Do we have any testimony on this Houston one?

MS. ANDERSON: No, we do not. Do we have representative from Alta Northgate in the room?

MR. FELDER: Yes.

MS. ANDERSON: Sir, would you come forward? And then after you testify, if you'd please complete a witness affirmation form?

MR. FELDER: Certainly.

MS. ANDERSON: And if you'd introduce yourself

to us, please. Thank you.

MR. FELDER: My name's Bernard Felder. I'm director of affordable housing with Wood Partners and the developer of the Alta Northgate property.

MR. CONINE: Could you address Mr. Bogany's comments about the submarket area, just in general.

MR. FELDER: Absolutely. Within our market area, there is a preponderance of multifamily properties. However, it's market rate multifamily deals.

Our particular site is within about a mile of what would have been the Sugar Pines community. If memory recalls there are three affordable housing deals within five miles of our site. But again the preponderance of housing around our community is multifamily market rate.

Some of the properties are in fact offering concessions. But even after concessions the majority of those properties that have rents that are above those proposed for Alta Northgate.

Obviously with an unrestricted property as soon as rents can be raised on a market rate transaction, they obviously will be and will not be made affordable to affordable housing residents.

So we would be happy to share our market study with you, any information that you and the Board would

request.

I would also add at this stage we're obviously looking at an inducement which obviously allows us to move forward in terms of additional analysis and deal structuring. And inducement does not necessarily mean that we'll ultimately move forward with the project.

MR. BOGANY: Well, I guess one of the concerns I have is that when rents are soft and you have market rates, they're still going to -- everything becomes affordable then.

So whatever rates that you have from \$500 to \$800, then those A-plus apartments which -- I don't know how many of them are over there -- but they now become \$800 to \$500 to compete.

So my concern is the success of your project more or less, because you're having to compete on this end. I know that area's got a lot of saturation there.

I'm just concerned that if any of these tax credit programs we approve in Houston, not just yours, but any of them in actually Houston, would survive right now because of the oversaturation.

I got a report from one of the market guys the other day, O'Connor & Associates, and it was not a favorable market support, items about the market rents in

Houston. It is very soft right now.

I'm just concerned that we induce it to move forward, you get there and it never gets done or it's a failed project. I know you want to make money on this deal, and that's the goal.

But my concern is whether or not we'll see it back somewhere or foreclosure. We just had one guy -- can't think of his name right now or know him -- but some of his projects were foreclosed throughout Houston.

It could have been from management. I really do have no idea. But I'm just concerned right now that we continue to put them in an area that's saturated with apartments. I just have a problem with that.

MR. FELDER: I will share with that I don't have the specifics and the statistics on all those properties with our market area. But we are adjacent to a market rate community.

We're literally at the intersection of Butterfield and Hafer Road, and we are adjacent to a market rate community, that's actually doing fairly well for that market.

They are at 98 percent occupancy, and at this time only offering a half-month's concession on a couple of the unit types. And even after the concessions, their

rents are higher than ours.

Again I can't tell you that six months from now, that same market situation will be in existence. But again, we're being induced, and there's a lot more homework on our side before we decide to move forward or not.

MR. BOGANY: Ms. Carrington, so this is basically giving them an opportunity to continue on with their research.

MS. CARRINGTON: That's correct.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Thank you, sir. I had one other question, Mr. Felder. Have you done a formal market study on this area?

MR. FELDER: Yes, sir.

MR. CONINE: You have. What did it say?

MR. FELDER: It's with market data, apartment market data, Darrell Jack. Our capture rates were within the boundaries for TDHCA's guidelines. I don't remember the specifics, but we did have it completed and would be happy to forward that on to you for review.

MR. CONINE: Thank you.

MR. BOGANY: I move that we move these units into inducement.

MR. CONINE: That's including Grand Prairie?

MR. BOGANY: Including Grand Prairie?

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none I assume you're ready to vote. I would add for the record, I think I need the resolution number 05-016. All in favor of the motion, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. Item 5 b).

MS. CARRINGTON: Item 5 b) is the first of two multifamily mortgage revenue bond transactions with TDHCA as the issuer and the allocation of 4 percent credits.

The first one is located in Houston. It's Alta Cullen Apartments in the 3900 block of IH-35. For the Board's information the map is located behind tab 7, I believe, so you can locate the property.

This is 240 units. It is a priority 1-C transaction. It's new construction, and it also serves the general population. You'll remember that's our new word for family.

We are requesting recommendation of tax credits of \$606,365. The public comment at the bottom behind tab 3 where we have summarized the particulars of the citizens' comment in the public hearing.

Basically the only comments we received on this one was support. No opposition. A public hearing that did not have very many people in attendance.

The underwriting issues related to the development are the fairly standard types of underwriting issues that we see on our recommendations.

And we are recommending both the allocation of the tax-exempt bonds -- the issuance of the tax-exempt bonds in an amount not to exceed \$14 million and \$606,365 in tax credits.

As we move to the resolution my staff did tell me this morning that there is a correction in this resolution.

On page 3 there is an incorrect date, the date of the top of the page 3 of the resolution. And that is behind tab 2. That date in the book is September 1, 2048.

That date should be March 1, 2045. That is resolution number 05-014.

MR. BOGANY: So are we going to move on Alta Cullen? That's what we're discussing now.

MS. ANDERSON: That's what we're discussing.
We don't have a motion at this stage.

MR. CONINE: Move to approve.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? Questions?

MR. BOGANY: I know the location. There's nothing out there but prairie and housing. I just hope it doesn't -- we've got a lot of projects in that general area but not really close to this.

This is kind of out by itself. There are several up and down 288. There's one down the street on in Cullen, but it's probably about four or five miles away from this particular project. But it's kind of out there by itself.

I guess viewed purely from Pearland and Houston, it may work.

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing that I assume then we're ready to vote. All in favor of the motion, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The next item for the Board's consideration is the Atascocita Pines Apartments, which is located in Humble, Texas. This is 192-units. It's a priority 2 transaction. 100 percent of the units at 60 percent.

The amount of the issuance of tax-exempt bonds would be \$11,900,000. It is new construction, also general population. The tax credit recommended amount for this transaction is \$577,587.

Behind tab 3 again on your write-up on the bond development profile and Board summary you will see down at the bottom on the public comment on this particular transaction, this transaction does have some opposition.

That is profiled and outlined in the transcript that you have. Most of the opposition was related to the overcrowding of schools in the area.

We have also some underwriting recommendations behind tab 5 on this particular transaction. We are looking for revised floor plan for two of the building types, a flood hazard mitigation plan.

The rest of the conditions are conditions that the Board does typically see. Again behind tab 7 you'll see a map of where this transaction will be located, where

of course is in Humble, which is north of Houston.

We are recommending both the issuance of the tax-exempt bonds and the allocation of the credits. The resolution number is 05-015.

MR. CONINE: Ms. Carrington, what was the issue related to the revised floor plan on buildings types 1 and 2?

MS. CARRINGTON: I will have to ask Mr. Gouris to answer that question.

MR. GOURIS: Thank you. I'm Tom Gouris, Director of Real Estate Analysis.

The floor plans that were provided just didn't include those two design types. In an earlier submission they submitted them, and things changed.

When we got the last set of plans, we just didn't get those floor plans to match up. So were just asking them to submit them.

We don't think there's going to be any issues with them, but just really have a copy of those. Then we can make sure what they're building is consistent with what their unit mix says.

MR. CONINE: Well, the unit mix related to the QAP is okay

MR. GOURIS: Yes.

MR. CONINE: Thank you.

MR. BOGANY: I have a question for you, Mr. Gouris. I see in my Board book that all the units that are tax credits around it. What's the mix of apartments in that general area? Because I don't see that in my map. I just see the tax credits.

Of course it's very similar to the other. It's kind of out by itself, away from the concentration side of it.

I know some apartments throughout that area. So what did the market study look like?

MR. GOURIS: The market study suggested that this would meet our capture rate and that there was sufficient demand to support the transaction.

They didn't identify any significant number of new conventional transactions that were in competition with this.

As I recall there weren't any that we had a concern with that might be at prices that would be competitive with what this one's planning to be priced at.

MR. BOGANY: Okay. Thank you.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Further discussion?

(No response.)

MS. ANDERSON: Hearing that I assume then we're ready to vote. All in favor of the motion, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: Item number 6. This is why we have so many good-looking people in our audience today in their suits, staying until the very end.

This is staff's recommendations of the three firms that are being recommended for senior manager in conjunction with TDHCA's single family mortgage revenue bond issues.

The Board will remember that last month we had discussion and public comment on an evaluation tool that the Department was utilizing to evaluate the performance of the six investment banking firms who had served as senior managers in our transactions over the past, I think, three years.

So what we did was take those investment banking firms and use the instrument that the Board had approved last month and evaluate those firms.

The write-up -- the cover page gives you basically the bottom line, which is the scores. And then behind that you see the actual rankings and notations of staff as we worked through their performance over the last three years.

And what we are recommending to the Board today as senior managers Citigroup Global Markets, UBS Financial Services and Bear, Stearns & Co.

What we would also be recommending is that the remaining three firms -- and those remaining three firms are George. K. Baum, Piper Jaffray, Siebert Brandford & Shank -- that those remaining three firms be co-managers, remain on basically the co-manager team.

Then next month what we would be doing is bringing to you a selection of co-seniors at the next meeting.

So what we're recommending is these three firms -- these were the highest-scoring firms -- to be our senior managers on our upcoming single family transactions, that the other three firms stay on as co-managers.

Is that right, Mr. Johnson? Did I say that right? Mr. Johnson, you'd probably better come on up.

That's the staff's presentation.

MR. BOGANY: I have a question.

MS. ANDERSON: Yes, sir.

MR. BOGANY: I'm looking at the score results.

We see one section as 1 through 5. Then we've got one down that's 1 through 6. What's the difference? I don't see the difference as showing the two.

You've got ranking by quantitative score, and you've got ranking by qualitative score. Okay.

MS. CARRINGTON: Two of them had a tie. George K. Baum and Piper Jaffray both had 14 points on the quantitative.

MR. BOGANY: And the other question. Would one ranking and one point in qualitative score is zero, and then on quantitative, a three. Why is that one even being considered?

MR. JOHNSON: First question. We have six firms. So we ranked them 1 through 6 and then assign points in descending order from 5 to 0. With the qualitative scoring methodology, it was on a scale once again from 5 to 0.

So what you're seeing is the ranking is 1 to 6 with points from 5 to 0. Also on the qualitative scoring you have points of 5 to 0.

MR. BOGANY: What is qualitative scoring?

MR. JOHNSON: Subjective criteria.
Observations by staff.

MR. BOGANY: Okay. Thank you.

MR. JOHNSON: Your second question. Would you like me to address that one?

MR. BOGANY: Yes.

MR. JOHNSON: That firm did not have -- putting together housing bonds is somewhat unique. You have a need for different resources both human and technical software capabilities.

That firm did not have the resources to manage one of our deals in-house as with the other firms. But it did have the capability of selling bonds as a co-senior manager. They were in that pool primarily as a co-senior manager.

MR. CONINE: Mr. Johnson, you're recommending these three firms and then the other three go into co-manager teams. How many current co-manager firms do we have before we add these three to it?

MR. JOHNSON: There are 12.

MR. CONINE: And now we're going to go to 15.

MR. JOHNSON: Yes.

MR. CONINE: And then next month, I think I heard Ms. Carrington say, we're going to come forth with

the criteria to establish these co-seniors.

MR. JOHNSON: There'll be a recommendation for selecting co-senior managers going forward.

MR. CONINE: The criteria or whatever -- the rules of the game.

MR. JOHNSON: The rules of the game.

MR. CONINE: And then we'll worry about selecting those co-seniors later on.

MR. JOHNSON: Yes.

MS. ANDERSON: Let's be very fair about what was said in the Finance Committee last month and the commitments you made last month.

MR. CONINE: Right.

MS. ANDERSON: Because you said you might want to come up with more criteria, so what we would expect to see from you next month -- like we've done this process this month -- is that you come up with proposed criteria for the co-seniors and bring that to the Board for review and for public comment from the banking community.

And then in a subsequent month, which I guess, is could be as early as May, then you would bring a recommendation.

MR. JOHNSON: Might want to modify that a little bit. The first part, yes. But we do have a deal

that will be in the market for possibly next month or May.

So we might want to consider presenting the criteria, receiving public comment and also accepting --

MS. ANDERSON: I need you to hear me, Mr. Johnson. We will do it the way we have done it before. Now, if there's a deal that's needs to be in the market, you have a pool now of 15 entities, that with the Board's support, you have the discretion to select your co-senior for that deal.

MR. BOGANY: Just to help me understand -- so we can still go forward with this deal without holding up this deal.

MR. JOHNSON: No, sir.

MR. BOGANY: Okay.

MR. CONINE: I'm good.

MS. ANDERSON: Other questions?

MR. CONINE: Motion to approve.

MR. BOGANY: Second.

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing that I assume then we're ready to vote. All in favor of the motion, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. CONINE: Nice job, Mr. Johnson.

MR. JOHNSON: Thank you, sir.

MS. ANDERSON: I am advised that if we would have a motion, that the staff is ready to discuss the item that was tabled earlier, which is agenda item --

MR. CONINE: Move to reconsider item 4 b).

MR. SALINAS: Second.

MS. ANDERSON: I'm sorry. There's a motion to take off the table agenda item 4 b), and it's been seconded. All those in favor, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. It's off the table. Ms. Boston?

MS. BOSTON: If you'll look on the second page behind tab 4-B.

MR. CONINE: What page? I'm sorry.

MS. BOSTON: Tab 4-B, and it's your second page. You see the first page of the policy, under Section 3 for eligibility, I would propose making two additions.

The first is that under number two at the end of letter d., we would add a ", or" and then we would add a new e.

And it would say -- this is where we're talking about what type of evidence you'd have to have -- "on evidence that involves two adjacent parcels, of which one qualifies under Clauses a. through d. and for which the application is submitted under one ownership, one financing plan, and for which there are no market rate units."

That would capture all the requirements under 42 and making sure that it's coming in together.

Then I would also suggest that we add a number 3 which would state, "applicants must be identified as in compliance with USDA regulations."

So anyone on who -- either of the two properties for that matter or one that's just being submitted as one -- if USDA finds them non-compliant then they would not be even able to come in and try and request. This program would have to be a new owners.

MR. CONINE: Move for approval as amended.

MR. BOGANY: Second.

MS. ANDERSON: Mr. Hoover.

MR. HOOVER: My name is Dennis Hoover, and I

represent myself and Rural Housing Association.

Sox and I and Brooke met out in the hall a little bit. To answer some of the questions, some of your concerns, about if somebody had one of these things, let it slide into foreclosure, then it'd be eligible for this policy.

Well, if you did that you wouldn't be eligible for funding from RD. To be eligible for this program to begin with, it's got to be an RD -- whoever's funding the acquisition's got to be RD. If you're out of compliance, they're not going to fund an acquisition.

So the new guy, the new applicant, that wants to consolidate two has got to be in compliance. So that addresses one of your concerns.

I did one of the things in the current round. It just so happened that the owner of an adjacent property to one of my RD deals, he's in foreclosure. He happened to call me about the end of December. But if had been two weeks later or a month later it wouldn't have worked.

I was interested in the deal, because I had an adjacent property that I would have been interested if it was in the same town.

To consolidate properties, consolidate management, and maintenance and two, one 30-unit and one

40-unit, RD properties it would be a lot more viable, feasible on management and maintenance and application and rehab to do one 70-unit property than it would one 30 and one 40.

It would have been questionable whether I would have been interested in acquiring a 30-unit property by itself, because of the smallness of the deal. Trying to maintain and manage a 30-unit property all by itself, it's a part-time job for somebody.

Seventy units is a full-time job for management and maintenance. So I would want the language to say anything in the same town, instead of just adjacent to one another.

The amount of money -- Sox and I tried to do a tally amongst the three or four guys that would answer an email. There's about 400,000 we think out there of just the three or four that answered on Rural Rescue deals.

So I would think that with \$500,000 we'd get closer to using that this year.

The reason for the Rural Rescue policy -- I think in the fall 2002 RD foreclosed on about four properties on the same day in October or November. There's nothing that anybody like me could do about it.

Then the Board passed this policy, and then the

next year there was no foreclosures. I think this year there's been -- somebody just come and used the Rural Rescue policy for three or four deals.

But I'm thinking there's three or four more out year this year, at least the ones that I know about.

Any questions? Thank you.

MR. CONINE: Ms. Carrington, I have a procedural question. If we were to use up early this year the first \$250,000 that we currently have allocated, would that prevent staff from bringing to the Board the next one that would come through the door?

MS. CARRINGTON: I think staff could come to the Board and ask for a waiver on the policy.

MR. CONINE: Where I was headed was I didn't want staff to cut them off without them getting in front of us.

MS. CARRINGTON: Would we tell them, no.

MR. CONINE: Right.

MS. CARRINGTON: If you would like to have us consider those when we might have exceeded the \$250,000 on, then we can certainly do that.

MR. CONINE: I think that would at least help me a little bit. I'm still vocal on keeping the \$250,000 in place.

Secondly I think it would be very helpful to this Board member to have some public comment from the Texas RD people.

I'd like to understand a little bit more about how they operate over there in the future, and a five-minute soliloquy would probably take care of that.

MR. SALINAS: The amendment does not say anything about changing the \$250,000. Right?

MR. CONINE: Right.

MS. CARRINGTON: But as I understand it staff will not slam the door on someone, because we have --

MR. CONINE: Right. No. Bring them on. We are bound to see them and understand the circumstances. I just don't want to create a gold rush.

I move for approval of item 4 b) as the amendment recommended by staff.

MR. BOGANY: Second.

MS. ANDERSON: Additional discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

Before we go on to agenda item 7, I'm remiss not to have done this sooner. But I want to welcome Michael Gerber from Governor Rick Perry's office as well as Scott Sims from Speaker Tom Craddick's office.

They are faithful and often usually with us at our Board meetings. And we appreciate their attendance today. Thank you.

Okay. Item 7. Ms. Carrington.

MS. CARRINGTON: Item 7 is the approval of our Section 8 public housing authority plan, which is both our five-year plan and our FY 2005 plan. It's a one-year plan.

This is a HUD requirement. This document is due to HUD on April 17, 2005. There's two components of the plan.

The one-year part of the plan provides information about our program operations, our services, our strategies, residents' concerns and needs and services.

The five-year part of the plan is more about the mission and long-range goals and objectives. The Board will remember that we had discussed in our Programs

Committee meetings over the last several month the administration of our Section 8 voucher program.

We do administer approximately 2,000 vouchers around the state. The Board has agreed to relinquish about 500 of those vouchers to Brazoria County. That is still in the process of being approved at the HUD central office.

So those vouchers have not yet been allocated to Brazoria County. When I was in Washington earlier this week, I did meet with Deputy Secretary Liu and asked them if they would indeed take a look and when those vouchers were going to be moved to Brazoria County.

With that we administer these vouchers in three areas around the state: around San Antonio, around Houston and around Fort Worth, in many small communities that do not have the capacity to administer the voucher program on their own.

When you look at this plan and the components of this plan, it's really very different from our state low-income housing plan and many other plans that we do, in that this is very much kind of a check-the-box kind of plan about where our mission, what our goals are, what we will and will not be doing.

One of the items that has come up that HUD has

mentioned to us on the last several years has been our family self-sufficiency plan. And Mr. Bogany, this has been something that you had had a particular interest in.

Basically where we looking to implement that family self-sufficiency program was in Brazoria County. So of course since those vouchers have been relinquished by the Department and at some point will be allocated to Brazoria County that basically will take that requirement out of our PHA plan.

With that I do have Eddie Farriss, who's the Director of the Community Affairs Division, if you all have any questions of Mr. Farriss. Staff is asking for approval of this plan.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

I have some -- can I do one? I'm going to move to table this until the next Board meeting which is still ahead of the April 17 date. I have not had an opportunity to review this in detail.

I have a number of questions of the staff that I don't think can be addressed in this Board meeting on short notice about the progress made towards the things that Program Committee Chairman Conine has asked Mr.

Farriss to do around continuing to explore the possibilities of exiting this Section 8 program.

Those requests were made in November. It's now March. I think we need an update on that.

I have a question about why we're proposing to ask for more rental vouchers, when we had that discussion as ongoing item in the Program Committee.

So I'm going to suggest that we table this so that we can have a more complete presentation next month.

I'm going to move that we table it.

MR. SALINAS: I think you have a motion to second to approve it. How would we work that? Who made the second? Who made the first?

MR. BOGANY: I made the first.

MR. SALINAS: What do you all want to do?

MR. BOGANY: I withdraw my motion.

MR. CONINE: I'll second the tabling motion.

MS. ANDERSON: All those in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion to table carries to the next meeting. Thank you.

Item number 8 about election of officers.

MR. CONINE: Thank you. I'm running for office. I like this job. I want to keep it.

MS. ANDERSON: In statute there is a requirement that -- I think it is in -- in each odd-numbered year, early in the year, the statute asks that we elect Board officers. So that's why this is on the agenda today. I would entertain a motion.

MR. GONZALEZ: I nominate Mr. Kent Conine for Vice Chair of the Board.

MR. SALINAS: Second.

MS. ANDERSON: Anybody else you want to nominate for any other offices?

MR. CONINE: I want to nominate Vidal Gonzalez as Treasurer of the board.

MR. BOGANY: Second.

MS. ANDERSON: That just leaves secretary.

MR. SALINAS: I'll nominate Dolores Groneck as secretary.

MR. BOGANY: Second that, too.

MS. ANDERSON: With the Board's pleasure, we can take all of these nominations and vote on them at once. Any discussion?

(No response.)

MS. ANDERSON: Hearing none, then I assume then we're ready to vote. All in favor of these nominated individuals, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. The nominations are voted by the Board. Congratulations Mr. Conine, Mr. Gonzalez, and particularly Ms. Groneck.

I think it's appropriate particularly to give Ms. Groneck a round of applause.

MR. GONZALEZ: I think she should give a speech.

MS. GRONECK: Thank you all.

MS. CARRINGTON: You all realize there will be an interim election sometime after the summer.

MR. CONINE: Maybe not.

MS. ANDERSON: Okay. I'm going to suggest that we do a couple of things out of order. If we could at this stage go to the Executive Director's report.

MS. CARRINGTON: Several bills have been filed in this current session of the Legislature that in one way or another impact the business of TDHCA.

Ann Reynolds, our Deputy General Counsel will

tell you that there have been actually more bills filed that impact our Agency than any other session that she can remember.

Some of them I'm going to summarize very briefly today. The Board does have access to the intranet which provides you all information on these pieces of legislation.

And I think you all also received Ms. Reynolds's legislative memos or have access to her legislative memos.

So since you have a lot of this information I think it's just worth mentioning some of the ones that are perhaps of the most import to TDHCA or give us additional responsibilities and duties.

The first one -- and we do have a hearing on this bill on Tuesday of next week at eight o'clock in the House Committee on Urban Affairs. And that is House Bill 1167, and the author of that bill is Chairman is Talton.

That bill is a bill that would rewrite most of our housing finance program operations with particular interest on the tax credit program.

MR. BOGANY: What day is that?

MS. CARRINGTON: It is Tuesday, March 15. And the hearing will begin at eight o'clock.

MR. BOGANY: Where at?

MS. CARRINGTON: It will be E1026 over in the Capitol extension.

MR. BOGANY: Can I ask you a question?

MS. CARRINGTON: Yes, sir.

MR. BOGANY: Before that date I would personally like to see once again a summary, a synopsis of that bill, pros and cons of it, what affects us, how the Agency looks at it. I don't want to go to this meeting and not have that information available to me.

And even if I do not come, I would like to know the pros and cons of it. Just, this is the deal; this is the synopsis of it; this is what staff thinks; this is what the opposition thinks. At least I'll have that information at my disposal.

And actually I'd like, Ms. Carrington, I've been getting the emails about it. But once again I would like pros and cons of each one of those bills that affects us.

I just think it's important if I'm asked a question, if someone comes to me and asks me something about it, that I can intelligently talk about it and say, this is the Department's thought process on it. I understand your position, but this is our position.

I would like to see that on anything of significance.

MS. CARRINGTON: Well, I think, Mr. Bogany, what we will be able to give you is the impact of the proposed legislation.

MR. BOGANY: That's fine.

MS. CARRINGTON: What we believe the impact would be to the Agency.

MR. BOGANY: That's what I need. I need maybe pros and cons is the wrong word. Maybe impact is better. I'd like to see --

MR. CONINE: Based on that lecture you got earlier.

MS. CARRINGTON: We certainly can do that, Mr. Bogany.

Senator Lucio has filed 865, which would move TDHCA Sunset date to 2013 and changes several functions in the tax credit program.

A joint filing with Lucio and Chavez -- and this bill has actually -- we've had a hearing on this. It's come out of committee, and it's been passed to the full House.

This would transfer the inspection duties of migrant farmworker housing from Health and Human Services

Commission over to the Texas Department of Housing and Community Affairs.

There are 37 of those migrant farmworker communities around the state. We would do those inspections through our Manufactured Housing Division.

They have seven offices around the state, many of them in areas where these migrant farm labor housing is located.

We would do it at much less cost than what Health and Human Services Commission is charging right now, and we'd be able to do it more frequently than HHSC.

So that did come out of committee 100 percent favorably and is on the floor of the House.

Senator Lucio has a bill that would instruct TDHCA to conduct intensive statewide needs survey with bond funds appropriated from the Private Activity Bond Program.

This bill would need both Senate Finance and House Appropriations to include this transfer from the Bond Review Board over to TDHCA.

At this point the request of those fees being appropriated in the Bond Review Board and then transferred to TDHCA has not been approved.

A bill by Senator Ellis would charge TDHCA with

the statewide oversight with property managers. This would require TDHCA to create a new division to regulate this area.

Next a bill by Senator West would change several scoring parameters in the Housing Tax Credit Program and would emphasize Fair Housing concerns.

Chavez has a bill that would have TDHCA conducting subprime lending studies in five particular areas: Bexar, Cameron, Dallas, El Paso and Travis Counties.

Van Arsdale has several bills. One of them would prohibit TDHCA from awarding Housing Finance Division funds. So this would be credits, credit and bonds, housing trust fund, to Harris County for two years.

Van Arsdale also has a bill that would prohibit TDHCA from holding hearings on tax credits during the legislative session.

Then a joint bill by Van Arsdale and Riddle adding additional notifications for the Housing Tax Credit Program.

We are through our hearings for Senate Finance and Appropriations. Those are done. We went through the workgroup hearings, and then we went through the full hearings.

We did not get any of the exceptional items that we asked for. However, we did get our fund being appropriated for PeopleSoft, 8.4.

MR. DALLY: Senate only.

MS. CARRINGTON: Senate only. But we're still in mark-up in the House.

I think that's -- anything else, Mr. Dally from a financial standpoint.

We are reducing our FTE count from 313 which was approved by the Legislature down to 298.

Saved the State about \$2.5 million with our move. And we've been reporting that good news.

MR. BOGANY: I have a couple of -- are you finished with the bills?

MS. CARRINGTON: Yes, I am finished. We might ask Mr. Dally to come up just in case, or Mr. Lyttle, depending.

MR. BOGANY: I've got a quick question in regards to all the bills that are being filed. I just need to understand the process.

Once the bills have been filed, does this Department do a hearing on each bill? Does it get out of committee, then it comes to a hearing? How is this going to impact the staff in getting this information?

MS. CARRINGTON: We do a couple of things related to -- when bills are filed, if they have anything to do with housing or even mention housing, we do a bill analysis. And that's done by Ann Reynolds, who's our Deputy General Counsel.

And then we track those bills. Some of them get hearings, and some don't. There are many of them of course -- if they relate to TDHCA then we attend the hearing.

And we always sign up as a neutral party. And many times we are asked to provide information at the hearing related to how it would impact TDHCA, can we do it -- a variety of questions. But we are there as a resource only.

My governmental affairs area, my policy and public affairs area -- Michael Lyttle is in the back, so he can give you any more information on this.

But basically we track them. If it's anything to do with use we show up at the hearing. Sometimes we speak; sometimes we don't. It depends on whether they ask us to or not.

MR. BOGANY: Okay. Thank you. I have one more questions on reports.

We had talked about a couple of months ago --

and I don't see Mr. Pike out there anywhere -- but we talked about the bond program, the marketing campaign, and I'm not seeing ads. I'm not seeing anything else on it. I know the website is up. I've seen that.

I want to know what was going on there and what type of effort that we were working on concentrating to lenders who may be primarily lending in the minority community, and help pushing this product out, so we'd be able to get people to use the products and services that we're offering on that end of the minority community.

MS. CARRINGTON: We will make sure we have a report on that at the next Board meeting.

MS. ANDERSON: Any other questions for Ms. Carrington?

MR. CONINE: Did she finish?

MS. CARRINGTON: I think so. We've had the hearings. We came out sort of unscathed from a budget standpoint.

I think actually the only other item on the list is the State Auditor's report on Section 8.

MR. CONINE: That was my point.

MS. CARRINGTON: We do have a draft from the State Auditor's Office related to that. At our next Audit Committee meeting we will be discussing that report.

MS. ANDERSON: Because of this PHA plan that we've tabled until next month, that Audit Committee meeting needs to be next month.

MR. GORDON: Can we get a copy of that report before the meeting?

MS. ANDERSON: Right. As soon as that report's out, we don't need to wait to distribute it to the Board.

MR. GORDON: If we can get it as soon as possible for the Board book, that would be okay.

MS. ANDERSON: By way of announcement for our audience and for our Board members, I'd just remind you all that we have set the next Board meeting date for Thursday, April 7.

This is the first Thursday in April, unlike our normal practice of meeting on the second Thursday in April. So we will meet here on Thursday, April 7.

We do not have a need for an executive session today, so I believe this concludes the Board's business today.

MR. CONINE: Move to adjourn.

MR. BOGANY: Second.

MS. ANDERSON: Don't all speak at once. We stand adjourned. Thank you all.

(Whereupon, at 12:00 noon, the meeting was

adjourned.)

C E R T I F I C A T E

IN RE: TDHCA Board
LOCATION: Austin, Texas
DATE: March 10, 2005

We do hereby certify that the foregoing pages, numbers 1 through 108, 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 3/15/2005
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