TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capital Extension Auditorium
Room E2.036
1500 Congress Avenue
Austin, Texas

November 13, 2008
8:45 a.m.

MEMBERS:

C. KENT CONINE, Chair
TOM CARDENAS
GLORIA RAY
JUAN MUÑOZ
SONNY FLORES
LESLIE BINGHAM ESCAREÑO

MICHAEL GERBER, Executive Director

A G E N D A

P R O C E E D I N G S

MR. CONINE: Good morning. Welcome to the November meeting of the Texas Department of the Housing and Community Affairs agency Board meeting.

Can you hear me? That's probably a good thing. You want to hear me today?

Sorry about the room, folks. We did try to get the biggest we could, and this is what we got -- came up with. As I said before, there's still a couple of empty seats, otherwise, get cozy and take comfort in the fact that misery loves company.

(General laughter.)

MR. CONINE: The housing industry and the finance industry is all in misery these days; we all are in this together. So appreciate everyone's tolerance and patience as we go through today's meeting.

The call of the roll, make sure we've got an appropriate quorum here today.

Leslie Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. CONINE: Tomas Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Kent Conine's here.

Juan Muñoz?

DR. MUÑOZ: Here.

MR. CONINE: Ms. Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: All here.

Okay. Obviously we have lots of public comment, so -- in the part of the meeting today as well as on the agenda items. I will refresh everyone's memory relative to our public comment policy in that generally you have three minutes to speak on a particular subject.

If you want someone to yield you some time, you now have five minutes. No more than five minutes -- no more than three five-minute speeches or three-minute speeches on one side of any particular subject or project, and then equal time on the other side, if there is any.

Let's try to adhere to that today. I know some of you are in likely that situation, and believe me, I understand that, and I think the Board understands that. We'll try to empathize with you, but as a for instance, I don't need -- I don't think we need more than 15 minutes of hearing that construction costs have gone up for those of you in the room. I don't think we need more than that. So that would be ample.

If staff or anybody else as a group that wants to talk about that particular issue, or any other, make sure you organize in a speech pattern that I can follow on you and we can hit the top three and move on to the next subject. If you've got to do that, let us know -- let me know one way or the another through Eddie or somebody. That would be appreciated.

Okay. Starting off, we're going to call on Jeff Crozier to start the day.

Jeff?

MR. CROZIER: Good morning, everyone. My name is Jeff Crozier, and I'm the Executive Director of the Rural Rental Housing Association.

When we last talked, when my three minutes ran out, I was talking about the ills of rural Texas and how difficult it is to develop in rural Texas, and here we are today and the line behind me is long and distinguished for a lot of folks that are going to come up and talk to you about how difficult it is to do deals in rural Texas today. I'm not going to sit here and tell you each and every one of those because these guys have a better case than I could make.

All I'm trying to say is that nothing has changed technically in the last six to nine months here in the world. Developing in rural Texas is tough, it's hard. We need lots of leeway. There's going to be lots of alternatives and options that are going to be presented in front of all of you all today.

My goal is to just -- I just don't -- I'm scared somewhere along the line that a knee-jerk reaction is going to be made based on capital markets or whatever, and I just want to make sure that everybody understands, which I'm sure you all do, that development in rural Texas is very, very difficult right now and we need lots of help. And any help that you can give developers to develop in rural Texas would be greatly appreciated.

Thank you very much.

MR. CONINE: Thank you, Jeff.

Jim Brown?

MR. BROWN: Good morning. My name is Jim Brown. I appreciate the fact that you have a lengthy agenda; I'll be very brief.

I'm the Executive Director of the Texas Affiliation of Affordable Housing Providers, and I'm here to make a very, very brief comment on the 2009 Qualified Action Plan.

We are extremely grateful for the amount of time that staff has given the membership of TAAHP individually and collectively as we develop the 2009 QAP. We do have one issue we'd like for you to reconsider, and that's Section 49.6(d), Credit Amount, which is found on page 16.

Given the turmoil in the credit markets, high construction cost and less than competitive market place, TAAHP supports an increase in the credit cap for individual projects of two million. Additionally, TAAHP recommends that the proration of the $2 million cap be available to joint ventures between experienced and inexperienced developers to extend to joint ventures between the experience developers.

If you would look at the adoption of the 2009 QAP, if you would take that into consideration, we would certainly appreciate it. And I think -- are you going to call me back on the other?

MR. CONINE: I have two other witness affirmation forms for you, both yielding time to other people.

MR. BROWN: And presentations?

MR. CONINE: Yes, later.

MR. BROWN: Okay. Thank you.

MR. CONINE: Later. That comes later, right before lunch.

Bobby Bowling?

MR. BOWLING: Good morning, Mr. Chair, members of the Board. I'll try to be real brief. I've got two issues that I'd like to address.

The first issue is the additional credit policy, and the way I understand it, I think there may be some unintended consequences that result. The way that I understand staff is going to be proposing to the Board is the additional credits for 2007 deals will come from the 2009 pool, but the additional credits for 2008 deals will come from the 2008 pool.

Well, this creates a little bit of an issue with those of us that are up against the $2 million statutory cap. So I would propose the Board consider and adopt a policy whereby those up against the $2 million statutory cap would have the option of taking the 2008 additional credits from the 2009 pool. That way an unintended consequences are alleviated, and the true intent of the policy to give extra credits to deals that need extra credits will be able to be accomplished.

The second issue I'd like to --

MR. CONINE: Hang on just a minute.

MR. BOWLING: Yes, sir.

MR. CONINE: Explain how that affects you.

MR. BOWLING: Well, I've got, for example, my 2008 deals put me at $1.9 million.

MR. CONINE: I thought you said 2007.

MR. BOWLING: No, 2008.

MR. CONINE: Okay.

MR. BOWLING: The 2007 deals, the problem is solved. But some of these 1.9 million in 2007, they're going to get their money out of 2009. So that problem is solved. It's just for 2008 deals. The way I understand -- my reading of the Board book is the 2008 deals would get their additional credits also from the 2008 pool.

MR. CONINE: You need to go on now.

MR. BOWLING: Yes, sir.

MR. CONINE: Okay. Thank you.

MR. BOWLING: Okay. The second issue I'd like to address is really your Chapter 60 of your rules, your compliance rules, and I understand those are not being, I don't think, voted on today for final approval, but being put out for public comment only.

But I think there was a lot of public comment to staff about the definition of "substantial construction", and I believe that the proposed policy is actually more stringent than the existing policy. The old policy required for substantial construction more or less December 1 of the year following award of credits. We developers have to have four things: permits, all foundations poured, 50 percent of the framing, and 20 percent of the construction amount paid for.

The new proposed policy requires 100 percent completion of the club house, all permits, all grading, all utilities, right-of-way access, 100 percent of the foundations poured, and 50 percent framing. Or, in the alternative for that last item, 25 percent of all buildings dried in. I think that a lot of us are going to be facing some real difficulties in meeting the time line as it stands with the old policy, and this new policy is going to make it even more difficult.

I think the developing community voiced loud and clear that we were asking for some relief from that policy. Myself and my company proposed, in the old policy, eliminating the requirements of framing and foundations and just sticking with the permit requirement and the 20 percent construction requirement. So that would be my proposal for that.

That's all I've got unless there's any questions.

MR. CONINE: Any questions of --

(No response.)

MR. BOWLING: Thank you.

MR. CONINE: Paul Fitch? Jerry Lowry will be next.

MR. FITCH: Chairman Conine, Board members, Mr. Gerber. I'm Paul Fitch from Winston-Salem, North Carolina. Today I'm representing the people in the industry with gray hair and no hair who have been around for a while.

I was a banker for about 10 years before I got into affordable housing. And I started in the great period of '74 and '75, which was one of our first real estate crises that I remember. We were fortunate enough to pass Reg O in '79, which lets the CDS become free-floating and got up to the 21 percent primes. We passed the '86 statutory mac and did away with appreciation which created the down turn of '89 and '90 and the savings and loan default.

We've coasted pretty good since then, and this is the first down turn we've had since that time. This is a unique down turn. It wasn't done with legislation; it was due to lack of oversight. However, in all these times, in time we have worked out of these real estate crises in this country.

And right now we applaud your effort to help us get all these projects built. We have been successful in closing finance next week on our legal high school project because of your action, and I appreciate that.

But the playing field is not level right now. As Jeff Crozier talked about, the rural projects are at a strict disadvantage of the urban projects. Projects getting closed are usually CRA-driven. It places of very limited network of where the banks must invest.

I've got a friend in the southeast who is a part of some rural developers who have a lobbyist in Washington, and one of the things I pointed out to him, as they're working on, is I learned back in '87 it's a whole lot easier to get an administrative ruling than to pass legislation. So I'm hoping that the other developers would join in where there is a lobbyist and promote the Office of the Comptroller of the Currency to pass an administrative ruling to require banks to invest statewide if they're receiving government money.

The developing community's got to be creative now and not think about their one project, but to think globally on how we can get some relief that would help not only the State of Texas, but the other states. I think it would be a whole lot more forceful and have more impact if we band together.

And we will need some time, we will work out of this, and I appreciate what you're doing.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Jerry Lowry? Then next Bill Fisher.

MR. LOWRY: Mr. Chairman, Board members, Mr. Gerber, good morning. My name is Jerry Lowry. I'm chief operating officer for the Greenspoint Management District, which is a special purpose district located in North Houston within a 12-square-mile area where we represent 60,000 employees, 100,000 residents, more than 5,000 businesses, two and a quarter billion dollars worth of commercial property value, and also have and provide services to 70 multifamily communities containing more than 25,000 individual units.

Like you, I'm a governor appointee. I serve to be Jail Standards Commission, so I have the privilege of being on staff of one government agency and serving on the commission of another one. I understand, as you do, the importance of having a strong, effective staff. And you have one.

While it may sound like I was invited to be here today based on the comments that I'm about to make, that's not the case. Our agency believes in strong partnerships and developing those, and we believe we've developed one with your agency, and we're thankful.

Your staff, led by Mike Gerber, has worked well with us, educating us, training us, providing opportunities for input from us concerning the tax credit housing points and so forth. And that helps us to be helpful to our community and to serve our property owners, including multifamily property owners. We think you have a terrific team, and we want you know that. You probably already do, but we want to reinforce that.

Throughout this last year, or more than a year ago, we didn't understand this agency. I'm not certain that we completely understand it today, but we are light years ahead, and that's because your staff was thoughtful, creative and I will say patient with us, balancing, I know, a myriad of conflicting interests of so many. And they have brought balance to that and are doing an excellent job.

So on behalf of the Greenspoint District Board, I am here today to communicate that to you, but also to communicate our board's support and appreciation for your consideration of the 2009 QAP changes, rule changes.

I would be remiss also if I didn't extend our appreciation to Mr. Gerber and this agency for your response to the Houston region particularly, but I know it was beyond that, in response to Hurricane Ike. So, ladies and gentlemen, thank you. I appreciate the opportunity to be here today to express my appreciation for this agency and your staff.

MR. CONINE: Thank you, Mr. Lowry.

Folks, let's give staff a hand.

(General applause.)

MR. CONINE: That's terrific right there.

Bill Fisher?

(No response.)

MR. CONINE: Where's Fisher?

(No response.)

MR. CONINE: He's out of the room

Neely Plumb?

MR. PLUMB: Good morning, Chairman Conine and fellow Board members. I am Neely Plumb, the Mainstreet Manager and the Historic Preservation Officer for the City of Palestine, Texas. Today I'm also representing the Mayor of Palestine, as well as the Chamber of Commerce, who have previously been here with a similar request.

I understand that this has been a challenging year, you know, for the affordable housing industry, and it's also been challenging for the City of Palestine as well. However, our community must move forward, and the historic loss of Palestine is the most important piece of our downtown revitalization movement.

We have several smaller buildings that have -- that are in various stages of being rehabilitated, and that's been a community effort, as well as through the efforts of our city and our economic development corporation, and the Texas Historical Commission.

Our downtown now has a chance to come alive. We recruited the Landmark Group a couple of years ago to help us with our downtown revitalization. They have auctioned three of our largest historic buildings downtown, and we need these buildings to help revitalize our downtown, we need this group to do this.

So I ask that you move forward and award a forward commitment to this for our community, and that we can get this done for our town. Thank you very much.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Joan Tompkins?

MS. TOMPKINS: Good morning, ladies and gentlemen. I thank you for letting me come before you today. I am -- my name is Joan Tompkins, and I am a 38-year citizen, a resident of Palestine, Texas, and I am here to speak to you to oppose the housing tax credits for historic loss of Palestine.

I request that you review the minutes of the past meetings and the opposition that they presented. My first home in Palestine was a Victorian two-story house located at 206 West Reagan, which we rescued from being made into two apartments, restored it to its original splendor. It's a very fine home. Age presented to me the need for a one-story house. I moved down the street to 108 West Reagan and rebuilt this home as well.

In my 38 years in Palestine, I have served as executive secretary for the Chamber of Commerce, manager of the Palestine Mall; I did a 10-year tenure with the police department as records clerk, 16-years' tenure with the police department as a reserve officer fully certified by the State of Texas.

I appreciate this town and I love it. Once you cross the railroad tracks in Palestine and start on Sycamore, you're not downtown any more. You are on Silk Stocking Row, so called because of the great wealth homes in the area.

This pseudonym was given to the area, as told in Carl Avera's book *Wind Swept Land*. There are many lovely and beautiful homes in this area; some are being renewed -- being restored at this time, and some have been done already at great expense. The artist Ansel Nunn restored 212 West Reagan in the '70s and it's beautiful.

In the '70s, with the support of the Chamber of Commerce, I developed and conducted the restoration of the Dogwood Trails with the assistance of the AARP amendment, and we were very happy.

Our main comment, when we were getting through with the bus tour, from all the people from all over East Texas and some from as far as -- Lubbock I think is the longest trip we had -- was the beauty of these homes and the way that they were kept.

Till now this proposed apartment to be built on McQueen Street will serve to destroy this area of Palestine. The apartments will pose a serious traffic problem, West Reagan already's overused, and has seen a multitude of accidents.

It is my understanding that Reagan Street is proposed as a rerouting ingress and egress for these apartments. Gooch and Bowers Street cannot handle the additional traffic and will have to be rerouted. Our sewer and water lines are already pushed to the limits for our homes and our apartment complexes really create a serious burden.

Apartments in this location would not very suitable family locations. It is very close to the railroad tracks and very, very close to the railroad property, which has the round house and repair yards. It's really a dangerous area, and there's no fencing. It would be open for young people and children to fully explore, as children will do.

In closing, I ask for a denial of these proposed apartments. Let us keep our Silk Stocking Row with no runs in it. I respectfully submit this to you on this day. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. I have six witness affirmation forms on Casa Alton, all of them for. We will allow -- let me just read the names, Jean Latsha, Jorge Arcante -- I'm going to mess it up -- Francisco Martinez, Juan Galvia, Carlos Garcia and Auroro Kirkland [phonetic] --

FEMALE VOICE: Perez.

MR. CONINE: -- Perez. Okay. We'll allow -- oh, there's a bunch more too -- what we're going to allow is three people to speak five minutes for Casa Alton, so it's -- those that are here who have signed witness affirmation forms can decide on which three people want to come speak. You're welcome to come up here and speak.

Introduce yourself when you come up.

MS. LATSHA: Yes, sir. Good morning. I am Jean Latsha with the National Farm Workers Service Center. Today we're all going to hear numerous pleas from the development community from the TDHCA for help. Help that's needed in order to close deals and put affordable housing on the ground.

I am one of those many stories, but I'm in a particularly unique situation. I represent Casa Alton, TDHCA Number 07302, as the developer and managing general partner. To give a little history, Casa Alton was awarded 2007 tax credits in December 2007. Earlier this year we realized that due to declining market conditions, closing finances as stated in the application was going to be difficult, if not impossible.

You may or may not recall, but I approached this Board at the June meeting with an amendment request in order to make this project more financially feasible.

With the amendment granted, we would have been in a position to close. However, my request was denied.

At the time, we, National Farm Workers Service Center, felt it was irresponsible to invest the $900,000 that it would have taken to meet the 10 percent test while knowing that we would not be able to close. We are nonprofit developers so everything that we spend on a project that does not close is money that could have been spent to put affordable homes on the ground somewhere else.

At that time, I think it is safe to assume that other developers were in the same situation. However, we were the only developer in that situation that proactively asked the Board's help in the form of an amendment request. Unfortunately, our request was denied, and shortly after the 10 percent test deadline passed, and we returned our credits.

I feel we were the canary in the coal mine being the first of what is now several developers who are facing the reality of returning credits. One month later, HR 3221 was passed.

At the September Board meeting, two months after the denial of our amendment request, this Board decided to award additional credits to all 2007 applicants who had not yet closed. We believe we should be given the same consideration as the rest of the 2007 tax credit awardees. We were in exactly the same situation that they were in, we only chose to proactively solve the problem before we all got to this point, and now we have no credits.

Because we returned our credits, our application is no longer active. We are here today to request that the Board put Casa Alton on the December Board meeting agenda for consideration, to reinstate the application and award credits from the 2008 ceiling.

Both TDHCA staff and the Board meeting notes regarding today's agenda item two, and the Texas Affiliation of Affordable Housing Providers, in a letter to you regarding the same agenda item, suggest the possibility, and I quote the staff notes, "Allowing the 2007 applicants to return their allocation of credits and the Board reissue credits with a cost adjustment from the 2008 or 2009 credit ceiling."

This is precisely what we would be asking for at the December meeting. We just need the extra step of reinstating our application. Please understand that today our only request is to be put on the agenda next month so that we can formally ask for the reinstatement and the credits.

You can tell me no in a month, but please do not send all of these people in red T-shirts on a six-hour drive back to the Valley with no hope of having this project built next year. Some of them, as you know from your witness affirmation forms, would like to say a few words, including especially the City Manager of Alton, Mr. Arcante here. Thank you for hearing them and me.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Next?

MR. ARCANTE: Good morning, Mr. Chairman, members of the Board. Jorge Arcante for the City of Alton. Mayor Salvador Vela extends his apology. He wanted to be here very much this morning to support this project.

You've heard some of the detail. I just wanted to tell you that the City of Alton stands very firmly in support of this project. We are planning to extend whatever help the city can afford to extend to this project to see it come to fruition.

And if I may, Mr. Chairman, I'd just like to leave this letter from the Mayor.

MR. CONINE: Sure. If you'll give it Joe over there.

MR. ARCANTE: Thank you.

MR. CONINE: Anybody else? One other person can speak, if they so desire and here she comes. Please identify yourself when you come to the microphone.

MS. VASQUEZ: [Speaking Spanish]

(General applause.)

MR. CONINE: Thank you.

Okay. Les Kilday. Hold on, we only have three speaking to that particular project. Thank you.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: While Mr. Kilday is coming up, I'm going to ask Dr. Muñoz to translate. It's always really impressive when a group of citizens come and travel so far to make their point to the Agency. The Agency's gotten to where we really appreciate the people traveling such a great distance today to be here and make sure that this Board is aware of your interest in your community. We thank you very much.

MR. ARCANTE: Thank you.

(General applause.)

DR. MUÑOZ: I'll try to distill what was said, Statement of Margarita Vasques at 11/13/08 TDHCA board meeting, transcribed and translated by Inlingua Language Center:

Buenos Dias.
Good Morning.

Soy Margarita Vasquez.
My name is Margarita Vasquez.

Estas Personas y nosotros que venimos desde lejos y contamos con el apoyo de ustedes por favor.
We and these people have come from far away and are counting on your support, please.

Estamos cerca de la pobreza, la explotación con que viven las familias con una renta altisima, altisima, y casa alto, es una cosa diferente.
We are close to poverty, the exploitation which the families live with, including an extremely high rent, extremely high, and expensive housing prices, it is a different thing.

Es un proyecto en donde habra un centro de educacion para el desarollo y mejorar la pobreza de estas familias.
It is a project where there will be an education center for the development and improvement of the poverty of these families.

Y Muchas gracias adelantado y tambien ustedes estan en la major posicion de ver que proyecto es el que conviene a las familias no solamente donde hay montones de vivienda sin parque y sin lugar donde se progrese.
And thank you very much in advance and you are in the best position to see which project will be most beneficial to the families not only where there are tons of houses without a park, but also without a place where they can progress.

Muchas gracias.
Thank you very much.

but her point was that these people have traveled a great distance; that they live in a degree of poverty that is extreme; that there are high rents in the area and very modest availability of affordable housing; that this facility would provide not only affordable housing, but a location for an education center, and education center which arguably could help in not only the learning, but the improvement in their economic condition through that education; and that this Board is in a position to try to alleviate some of that abject poverty.

And so I'm not sure when or if we -- when we decide this issue, but -- are we in a position to decide whether or not to put this on the December agenda now?

MR. CONINE: I think you can make that request.

DR. MUÑOZ: Well, then I move that their -- that they be placed on the December agenda.

MS. BINGHAM ESCAREÑO: I second it.

MR. CONINE: No need to move or second, we're just asking staff to do so.

DR. MUÑOZ: So let me ask the staff to do so then.

MR. CONINE: Dr. Muñoz, did you happen to catch her name?

FEMALE VOICE: Margarita.

MR. CONINE: Margarita --

MALE VOICE: [Speaking Spanish]

FEMALE VOICE: Vasquez.

MALE VOICE: Vasquez. Margarita Vasquez.

MR. CONINE: Okay.

MR. FLORES: Mr. Chairman, just so they understand --

(Exchange in Spanish.)

DR. MUÑOZ: He understood every word he said and then he piped in and said that [indiscernible] in and out standard and he would make sure that they understood, but he said it in such a way that it might have a double meaning.

(General laughter.)

MR. CONINE: Ms. Ray and I are very appreciative.

Okay. We'll get you on the agenda next month for sure.

Les?

(General applause.)

MR. KILDAY: Chairman Conine, Board members, Mr. Gerber, I appreciate the opportunity to speak to you today. My name is Les Kilday with Kilday Realty Corp. We are owners of Glenwood Trails, TDHCA Number 07309.

It's -- Glenwood Trails is a 114-unit family tax credit development in Deer Park, Harris County.

MR. CONINE: Hold on a second, Les --

Got five minutes. They've got some dedicated time.

Go ahead.

VOICE: I don't need it. I appreciate it. Okay.

MR. KILDAY: It's a 2007 allocation that has not been closed yet. As you know, we're in an unprecedented time in the tax credit industry here in Texas, and across the nation. Every price is sharply dropping, construction costs sharply rising, increased interest rates on term debt, increased operating expenses, especially insurance due to the hurricane, Hurricane Ike, credit markets tightening, investors retreating.

At the September Board meeting, the Board approved a plan to provide extra credits for the 2007 unclosed deals, along with the other '07 and '08 deals, by submitting an updated syndication letter for the '07 unclosed deals.

We have done so for Glenwood Trails, and we appreciate that opportunity. That action dealt with the falling equity prices. What it did not address though is the increase in construction costs, the interest rates on term debt and the increased insurance expenses since the original 2007 allocations.

Staff is recommending at this meeting an increase of 5 percent in direct construction and site costs. I would suggest that the Board consider a 10 percent increase. Construction costs themselves have risen sharply in the past six months, well above 10 percent in many, if not all, areas of the state.

In the last four months we've had four -- we've had three bids from independent third-party contractors, very seasoned in the tax credit business, and our -- the increases have been between 12 and 20 percent for our particular development. Without this 10 percent cost increase provision, Glenwood Trails and others that we have talked with, would not be feasible enough to attract a syndicator or a lender, due to the tightening credit requirements.

That would lead us to plan B, a good and viable alternative, but that would be to submit an amendment request to reduce the number of units from our current 114 to 90. With the current staff-recommended amount of credits and a reduction in units, Glenwood Trails will become feasible again.

In summary, Glenwood Trails would be the first affordable apartment development in Deer Park, a city that was very hard hit by Hurricane Ike and has a strong demand for affordable housing. I'm asking this Board for additional help in making Glenwood Trails a reality in 2009 by considering two options: one, approving the 10 percent in direct construction and site work costs, and if the Board is not in favor of that increase, I would ask for an indication that the Board would consider approving an amendment request at the December Board meeting to reduce the size of Glenwood Trails from 114 to 90. With this option I would also ask that the amnesty period be extended to like five days beyond the December Board meeting for those applicants that submitted an amendment request for the December Board meeting.

Thank you for your consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Hollis Fitch? Then John Greenan, I think, next --

MR. FITCH: Good morning, Mr. Chair and members of the Board. My name is Hollis Fitch. I'm here to speak on behalf of Washington Hotel Lofts project, 08184. At the July 31 Board meeting, the staff -- or, I'm sorry, the Board granted an appeal to the project to use the lease pass-through structure, which allowed the historic credits not to be reduced from the eligible basis for low income credit.

Since that date, we have provided the staff with documentation showing that the structure is valid and has been accepted by other state agencies. The issue that we are facing right now is that the two-tiered structure is not very marketable against the rest of the applications that are out there. It's a more expensive structure to put together from the legal side, and there's too many good deals out there right now that investors can acquire.

On October 1, we submitted a letter requesting a basis boost on that project. Basically it's now allowed under House Resolution 3221. And by doing the basis boost, we can get rid of the lease pass-through structure. With that in mind, it's not really granted underneath the '08 QAP, but it is granted under the 2009 QAP, and we would qualify for the basis boost.

After a conference call last week with Mr. Gouris, it turns out that they -- staff can't really investigate this further unless they are bidden by the

Board. So I'm requesting that the Board direct staff to investigate a basis boost for the Washington Hotel Lofts project for that to work in. I also have some documents from Bank of America where they say they're willing to invest in the deal if we can get the basis boost.

I have this for the Board.

MR. CONINE: If you'd like, you can give that to Michelle.

MR. FITCH: Thank you. Any other questions from the Board?

MR. CONINE: Is that -- are you finished? Are you done?

MR. FITCH: Yes, sir.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Tom, would you mind checking on the basis boost for this thing and reporting back next month?

MR. CARDENAS: Sure.

MR. CONINE: Thanks.

MR. FITCH: Appreciate it.

MR. GREENAN: Chairman Conine, members of the Board, Mr. Gerber, good morning. I'm John Greenan. I'm Executive Director of Central Dallas Community Development

Corporation, and I'd like to speak to ask you to treat projects that received a forward commitment of 2007 credits in 2006 against 2007 projects with a purpose of determining whether they could be eligible for an additional allocation of credits.

Even though the credits were awarded as part of the 2006 competition, we're under the same time constraints and rules as all other 2007 projects. The credits came out of 2007, and, of course, we face the same difficulties with increases in construction costs and in the retreat in the credit market as every other 2007 project. I think it would just be equitable to consider our projects on that same basis.

Thank you.

MR. CONINE: What state is your project in, just out of curiosity?

MR. GREENAN: We have begun construction --

This is [indiscernible], yes, sir.

MR. GERBER: And is this project in any part of downtown Dallas?

MR. GREENAN: It is.

MR. GERBER: That's all right.

MR. GREENAN: Thank you. We actually ended up having almost a 50 percent increase in construction costs over what we estimated, and all of that was due to the escalation of costs, but probably as much as half of it was.

MR. GERBER: Thank you.

MR. CONINE: Okay.

MR. GREENAN; Thank you.

MR. FLORES: I didn't quite understand. And your request is? Would you say that succinctly?

MR. GREENAN: Yes, I'll try. We received a forward commitment of 2007 credits in 2006. We'd like to be treated as a 2007 project for the purposes of determining whether we might be eligible for additional credits.

MR. FLORES: Okay. Thank you.

MR. GREENAN: Thank you very much.

MR. CONINE: Albert Sierra?

MR. SIERRA: Good morning, Board. My name is Albert Sierra. I am the Director of the City of San Marcos Housing Authority. And I am here to speak and offer public comment on Item Number 04432, Mariposa Apartment Homes. It's under item two of your agenda.

I will read to you letters of support and endorsement from the City of San Marcos mayor, Mayor Susan Rice, and letters of support for Mariposa Apartments from the Vice Chairperson our Housing Authority Board.

I will preface my remarks by saying that I also echo the sentiments towards Mariposa Apartments, a senior citizen complex, a beautiful senior citizen complex in San Marcos, the jewel of San Marcos for our senior citizens.

The letter that I would read first is the letter from the mayor. It says, "The City of San Marcos worked with Stuart Shaw in successful completion of the Mariposa Apartments. Our experiences with Mr. Shaw have been good, and whenever we brought something to his attention, he delivered more than expected.

"The facility meets the housing needs our age 55 and older population and helps us to address one segment of our affordable housing for seniors market. I compliment them on completing such a beautiful facility.

"If you're requiring additional information, please do not hesitate to contact me. Susan -- Mayor -- Rice, Mayor of the City of San Marcos."

The second letter is from Gloria Salazar. She's on the Board of Directors for the Housing Authority and she's vice chair.

She states, "My name is Gloria Salazar, and I currently serve as the vice chair of the San Marcos Housing Authority. San Marcos Housing Authority partnered with Bonner Carrington, LP, for the construction of an affordable housing community for our elderly citizens.

"I was personally pleased that it was Bonner Carrington, LP, that was our partner, as I had previously had the pleasure of working with Mr. Stuart Shaw on an Austin project when I was an escrow officer in Austin. As then, I found him to be thorough in his work, committed to excellence, and sincere in all his actions.

"Our community of Mariposa at Hunter Road provides affordable housing, a five-star rating, to our elderly community. This facility is beautiful and full of amenities that cannot be found in any of our other affordable housing communities in San Marcos. I have attended functions there and have personally heard wonderful comments from the residents living there.

"I am very proud to have Mariposa at Hunter Road in our community. I encourage you to support the work of Mr. Stuart Shaw and Bonner Carrington in providing elderly housing for our elderly.

"As our elderly population grows, so does the need for elderly housing. We need developers who are willing to invest in such projects, developers who are willing to build a quality development and yet remember to include amenities that will make the days joyful and full of laughter in the company of many new-made friends.

"I am grateful that Mr. Shaw selected San Marcos Housing Authority for their partnership, and Mariposa at Hunter Road for our community. Thank you for your time and consideration of this letter. Sincerely, Gloria Salazar, Board of Directors, Vice Chairperson for the City of San Marcos Housing Authority."

MR. CONINE: Thank you.

MR. SIERRA: Thank you very much.

MR. CONINE: Appreciate it.

Questions for the witness?

(No response.)

MR. CONINE: Okay. I have several witness affirmation forms. Ana Dueñez, I believe, with the Desert Villas Apartment project. And there's a couple of folks who have yielded time to her.

You have five minutes.

MS. DUEÑEZ: Thank you.

Mr. Gerber, Shannon, Board members, my name is Ana Dueñez. I'm president of the El Paso Lower Valley Neighborhood Association. And I'm also a homeowner, and for the past three years -- this last May was my last year for serving with the City of El Paso.

It's federal money coming that we deal with throughout the City of El Paso, and we oppose -- our community is opposed of the Desert Villa Apartments. I have a packet for each one of you.

(Pause.)

MR. CONINE: That'll work.

MS. DUEÑEZ: I'd like to show you that the first picture is the project for the Desert Villa. And this picture does not show a ponding area. Our problem in our community is a flood zone with FEMA. We're under FEMA restriction; it is a very hazard flooding area.

This can happen like in Presidio communities, cities that have flooded. We're right next to the Rio Grande. And also this -- it doesn't show a common area. It does only show there's 94 units and this apartment complex only has one exit in case of a fire -- it's going to be three stories high -- in case of emergency.

It will have fire department -- all these city officials going in, which would be the fire department, ambulance, police department and -- trying to get in while people are trying to get out. In case -- we're avoiding a disaster, in other words.

And the second page, connected to this one, is the city, the zoning. The city approved two exits in case of a structure on this property. And this long, you know, thing in back, that's the -- according to the developers it's going to be an emergency exit. That's an easement. According to the ordinance on El Paso, you cannot go through an easement of any sort.

And the second picture, it would be this one here, are engineered that less -- we have professionals living in our area and they gave me a packet which would be that the houses right next to this lot would be -- as you turn the page it's before and after, how it's going to look with the apartments right next to it, the privacy that the home owners are going to have with a three-story building right behind the back yard, which means it's not going to be very private. And that's what the people are very concerned about.

Second, to make it brief, I have a letter and this is a letter of myself that I had addressed to Ms. Sharon Gamble. I had sent a packet back in June -- I don't know if you have that package. We also have a letter -- Ysleta Independent School District opposing each of the overcrowded schools in our area, which we have about six in this area. And it's from Ysleta Independent School District.

The next one is from our engineer, one of our residents here, and it's for [indiscernible], and he's writing a lot of the issues that we're having in our community. Also, I have the problem with the signatures of people and residents that are opposed of this, that live around the community.

And second, I have pictures of what this area looks like. And our problem here is when it rains, the storm water goes into this sewage, but the pressure of the sewage perhaps because there isn't no sidewalks, drainage, it has -- it's what was farm land before, and now with all this, the solid waste is coming up the sewage into the properties, which leave a very bad odor afterwards. Now we almost had, 2006, a couple of times, flood. It shows some pictures of it before and after.

MR. CONINE: If I could ask you to wrap it up?

MS. DUEÑEZ: Okay.

MR. CONINE: Thank you.

MS. DUEÑEZ: I was wondering if I could get the minutes for the other people that have been here.

MR. CONINE: Well, we've already allocated you five minutes, which is our public comment policy.

MS. DUEÑEZ: But I can't get the other minutes from the other --

MR. CONINE: No. You got -- you went from three to five, that's all you can get.

MS. DUEÑEZ: Okay.

MR. CONINE: Now someone else can come and speak if they would want to.

MS. DUEÑEZ: Okay. And then I have -- we have in the packet also of how it floods and our cars go through the water. We also have the Rio Grande before and after. And the reservoir, we have a reservoir in our area, and we also have fire drains. Fire drains goes where the water goes to the reservoir and into all the canals around the area.

And I also have newspapers of the floods that we've been in several times. This is a map -- the circle in red in your map is the project, where they want to put this apartment complex on. And what we're trying to do is avoid it because it is on FEMA's flood zone. And in our committee in El Paso, we cannot fund any structures with federal money. And so we have turned down a lot of federal money projects because of this.

What is also in blue on your map is the hazard, and it's a hazard zone in our area, in our levy. Our levy breaks and we'll have to follow that procedure. So that's what we're trying to avoid.

And we're -- to make it fast -- and this is a map of FEMA. We just made copies for you all in the small --

MR. CONINE: Any questions of the witness?

Mr. Cardenas?

MR. CARDENAS: What stage is this project?

MS. DUEÑEZ: The stage?

MR. CARDENAS: Yes, has it started construction or --

MS. DUEÑEZ: No. No, it hasn't started. I think they're being awarded slowly.

MR. CARDENAS: I think the issues of access and ponding should be addressed by the City of El Paso. Those are requirements of the city.

MS. DUEÑEZ: Is it?

MR. CARDENAS: I don't know that they would approve a project like this if there were problems for --

MS. DUEÑEZ: Well, right now the --

MR. CARDENAS: -- the side of Texas. So I think for most of us who I think kind of give concerns should be taken up by the City Council because everything else, flooding in the area -- flooding, those are things that the city has to take into account. For this thing to get planning to be approved, those things need to be addressed by the city.

MS. DUEÑEZ: Okay.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MS. DUEÑEZ: Thank you.

MR. CONINE: Matt Hull?

MR. HULL: Mr. Chairman, I signed up for two items and --

MR. CONINE: I see that.

MR. HULL: -- my -- am I here for both? Please say yes.

(General laughter.)

MR. CONINE: I'm in a benevolent dictator mood today. Go ahead.

MR. HULL: Very good. Let me start with the Housing Trust Fund comments.

Mr. Chair, members of the committee, Mr. Gerber, my name is Matt Hull. I'm the Executive Director with Habitat for Humanity of Texas. I represent about 84 Habitat affiliates across the state. We build anywhere from 3- to 500 self-help homes a year working with very low income families, with churches and volunteers to put these homes on the ground.

My comment went to the Housing Trust Fund rule -- I suppose a comment and a question. Under 51.3, Notice of Receipt of Application or Proposed Application, traditionally it's been the case, and it's in statute, where the Agency will notify elected officials and neighborhood associations whenever a multifamily application has been submitted through the process.

And now if -- the way I way the draft rules was that it would extend that to the single family as well. I made the comment that we were opposed to this, and suggested that you revert back to the previous set of rules. And something very interesting happened in the -- reading the response.

The staff said that they concurred with my comments, and then in the statute, or in the proposed rule, went and did just the opposite, and made it very explicit that it was really for multifamily and single family. I would propose that you go back to the Housing Trust Fund rules from lasts year regarding this section on notice of receipt of application, or proposed application, and not require the notice for whenever a single family application is made.

And if you do decide to include single family, which is in your right, I would like some clarity as to does that include the Bootstrap Program, because there's no application any more, now that you are under this reservation system. And so I would just ask for some clarity on that before we get too far down the line.

So any questions on my comment related to Trust Fund before I move over to --

MR. GERBER: Let's do the work on this before we get to the end.

MR. HULL: Okay. Okay. That's fine.

MR. CONINE: Okay. Go to the next one.

MR. HULL: The next one is actually -- and I have a handout, and so it's related to Agenda Item Number 5, the neighborhood stabilization program, Neighborhood Stabilization Fund. I don't know how involved the Board has been or how knowledgeable you are of this program. It started under the Housing Stimulus Bill over the summer passed by Congress. It set aside roughly $4 billion to help cities, counties and states and nonprofits purchase foreclosed properties and put them back into service, getting the families into those homes.

The first thing I want to do is commend the staff for working under a ridiculously short time frame on getting this thing done. I don't know what HUD was thinking when they were trying to set the time frame on this, but it was ridiculously short, as only HUD can do.

We had made comments during the public comment period about allowing nonprofits to apply directly for the funds, and I think that that's in there, or it's in such a way that it's satisfactory.

The other thing that Habitat for Humanity has done at the international level, is work with HUD to get provisions in place to where the subgrantee can be the mortgage holder for the funds, meaning that a city, a county, or the nonprofit could use neighborhood stabilization funds to purchase the home and then turn around and charge a mortgage owner that and recoup that money. That money would then have to circulate back to the neighborhood stabilization program for the first four- or five-year period, and then after that it could go back to the sub-grantee.

I sent this information to the staff, and they very generously included it in the proposal. I want to thank them for that.

However, my one point is that for families earning under 50 percent of AMFI, 25 percent of these funds were roughly for what -- TDHCA is administering roughly $25 million -- is set aside for families earning below 50 percent of AMFI. And if Habitat is to be encouraged to participate in this program, like I hope they will be, and like HUD has suggested that they could be, the state has suggested charging a 1 percent interest rate on that.

And while that does match the USDA 502 loan program, I understand, and 1 percent is very generous money. I'm not saying it isn't. Habitats traditionally and historically do not offer, or do not charge an interest rate for ethical and religious reasons because we are an ecumenical Christian ministry.

So what I would ask the Board to do is to recommend, or in approving the draft plans, that you make a change no longer requiring that 1 percent rate on the mortgage financing for families under 50 percent of AMFI, that you allow it to go to zero percent.

Now there are probably several ways you can do that. The easiest is that you just strike the 1 percent to zero percent. You might be able to do it in such a way that -- if you're able to couple down payment assistance with that, the mortgage money that you could use the down payment assistance, or the closing cost assistance to buy down and basically pay the points on them mortgage loans to get it to zero percent interest, because Habitats I don't think have closing costs on their loans.

So those are my comments. I'll take any

questions, and I would certainly appreciate if the Board could make that change in the neighborhood stabilization program to enable Habitat to fully use the program.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. HULL: Thank you.

MR. CONINE: Craig Meyers?

FEMALE VOICE: Craig left.

MR. CONINE: Robert Gonzales? He's dedicating time to Craig, so Craig, yes. Fifteen -- or five minutes.

(Pause.)

MR. MEYERS: I'm Craig.

MR. CONINE: You're welcome to --

MR. MEYERS: Oh, here.

MR. CONINE: Yes, sir.

MR. MEYERS: Thank you.

I'm Craig Meyers, and I'm with West Texas Organizing Strategy and St. Paul Presbyterian Church in San Angelo, and we thank you for time, again, kind of time and time and time again, from San Angelo, and we love your traffic and --

(General laughter.)

MR. MEYERS: You have heard from us both by mail and by us speaking, having the privilege to speak four different times about the Blackshear project, which we're seeking forward funding for, for 2009. It's an excellent program as far as the neighborhood revitalization plan that is doing exceptional things. I mean -- and I don't use that term lightly; it has a track record of extreme success.

I'd like to just take one moment, so I'm not repetitious, to explain why forward funding is really critical for this program, both from a strategic and an economic basis. The City of San Angelo has set aside four neighborhoods that have been left behind for decades, to revise, Blackshear being the first one.

This project is the tipping point that allows us to allow the momentum that we've generated to take over, and the Blackshear neighborhood to redevelop in a way that's going to attract an awful lot of local and private enterprise.

So this is really something that's very timely because we're already moving into the neighboring neighborhood, the next neighborhood, Reagan. And timing is important because every other component's in place. And if we know we're getting the funding, then the people who are doing the streets and the utilities and the other infrastructure things that have to go along with putting these 20 homes into place, that will allow us to go ahead.

It will allow us to know that we have the momentum generated to move into the next neighborhood, and all of the energy is already in place to do that, but we really can't move until we know that this is on such solid ground that we can transfer some of our resources.

So we appreciate your consideration. We think that probably from a very objective standpoint that this is one of the best projects that I've seen in the state, or anywhere else, in 45 years. I do believe that forward funding would allow us, because of economic reasons, as well as the strategic planning reasons, to gain two years on the process that we would lose if we had to wait until next year to receive that assurance. So thank you.

MR. CONINE: Thank you, Mr. Meyers.

Any further questions to the witness?

MR. FLORES: What's the status of this project, Mike?

MR. GERBER: This is a project that's on the waiting list, but is --

MR. FLORES: Waiting list for what year?

MR. GERBER: For 2008.

And, Mr. Meyers asked for --

You're asking for a forward commitment?

MR. MEYERS: Yes, for 2009.

MR. GERBER: For 2009.

MR. CONINE: Okay. Thank you.

MR. MEYERS: Thank you.

MR. GERBER: Thanks to all the folks who came up from San Angelo today.

MR. MEYERS: Yes.

MR. GERBER: We appreciate it.

MR. MEYERS: Thank you.

MS. RAY: Thank you.

(General applause.)

MR. CONINE: Ron Pegram?

MR. PEGRAM: Good morning.

MR. CONINE: Good morning.

MR. PEGRAM: I'm Ron Pegram, developer for Peachtree Housing, which is developing a 144-unit seniors in Balch Springs, Texas.

I wanted to just take a minute and address the Board. Like any other developments, our development has experienced quite a bit of difficulty as a result of the current financial crisis. And in light of some recent events, I forwarded a letter to staff earlier this week outlining the latest of those events that adversely impact the development.

Just to give you some insight, Peachtree Seniors received an '07 allocation of 1,161,000 in annual credits and a subsequent allocation of 60,365 annually. Due to a reduction in price by the syndicator for the creditors, with this allocation of credits, we secured a guarantee from our contractor, a construction guarantee from the contractor to ensure that we meet the price and service date and move forward towards closing our deal. We felt the deal would close this month, however, we received a letter from the syndicator expressing concern about the placement service date. And in addition, reducing the pricing of the credits associated with our deal.

This action by the syndicator has caused our deal to -- well, actually can jeopardize the feasibility of the deal. And as a result of that, we're asking for you to allow us to return our '07 credits and be reissued '08 credits, as well as have our deal re-underwritten to the current construction costs and credit pricing that we're now under.

Just to give you some further insight, this deal was commissioned as a HUD 221(b)(4) deal, and in your packets there you will see that HUD sent to us a letter indicating that they would not invite the deal to a firm commitment primarily because of the unit mix, which, you know, that we could not change.

There are some other issues there, but we were in a positioning that we could address those, but the unit mix we could not address so we had to seek that elsewhere. And given that that was a 40-year term, we had to secure debt with Freddie Mac. And during that time, Freddie Mac, of course, has been taken over by the government, and their guidelines changed such that our $5.7 million loan that we were seeking all of a sudden became $4.5 million. So we had this huge gap that we had to finally address.

MR. CONINE: I need to ask you to wrap it up now.

MR. PEGRAM: So with that, there are two handouts there that you can -- if you read them but all in all we think the project is certainly worthwhile and needed, and actually is very crucial to the housing needs of Balch Springs and we'd ask you to consider this.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Steve Moore?

MR. MOORE: I was wishing I was later so I'd have more time to read all this.

My name is Steve Moore. I'm the owner of Premier Apartments, 408 units in Houston, Texas. They're TDHCA Number 08140.

I'm 60 years old, and I live and retire -- invested about half my net worth in run down property in one of the highest crime populations in all of Texas. I also set up a nonprofit and I'm personally planning on that nonprofit, which is dedicated to improving to the whole neighborhood, around 6,000 --

Because there are so many units eating up our funding units, the number -- the fund increase per unit is very low, and because the -- it's in a high crime neighborhood, I'm lucky to get a syndication off --

I submitted a revised budget request. I don't mind -- I'm happy to spend my money on the neighborhood. That's my specific contribution, but I don't want to lose money on the renovation. My request to you is that you approved my revised budget request, which reflects at least part of the reduced money that I was lucky to get at all.

If you do that, then, hopefully 8,000 people will also --

Any questions? Thank you for your time.

MR. CONINE: Any questions of the witness?

MR. CARDENAS: Where is this project?

MR. MOORE: It's near Bissonett in Houston, southwest Houston.

MR. CONINE: It's an '08 deal? Has it been approval already, or is it on the waiting list?

MS. MEYER: It's already --

MR. CONINE: It's already been approved, so --

MR. MOORE: I just started living there part-time but I have some --

MR. CONINE: Thank you, Mr. Moore.

MR. MOORE: Thank you.

MR. CONINE: Bill Fisher?

MR. FISHER: Thank you, Mr. Conine. Bill Fisher, Odyssey Residential.

We need your help, Board members; unprecedented times. We are asking for bold action from you all. I think many of the '07 deals you've heard are in trouble. We'd ask you to empower the staff to pursue whatever avenues are necessary working on a project by project basis, to ensure that these transactions are fully funded.

We have a rural project, you know how difficult rural projects are to place today, 07228, La Joya. We were naive enough to believe that the 9 percent factor would be applied to our credits, and we got an investor or fund our project. There was a gapping method discussed late in your discussion where they just changed the amount of credits based upon the price differential from the investor, even though his letter was specific for the much higher amount of credits.

So as I said last time we were here, we've got to fund these projects with all of the equity at reasonable prices so that we compete with all the other available investments nationwide. There's a major recession out there. I speak for many of the developers here we employ; a lot of families eat off our table. We can really use your help. It's a difficult time to borrow money, it's a difficult time to find an equity investor if your deal is properly funded.

I think it's a little bit like, as we look back here three or four months ago when the Bush administration first did an $800 billion bail out plan, you know, we thought that was bold action, and frankly it's turning out not to be enough.

So these are unprecedented times and we do need your help, and we would ask you to, from a policy standpoint, because I think it's going to take all the tools, simply empower the Executive Director and the staff to use their tools, credits, the gapping methods, whatever is necessary, to fully fund the '07 projects and give us an opportunity to propose those, particularly those rural deal. I have an urban area project that is funded and closing.

So we appreciate your attention, and say this is really directed to (2)(b). Thank you.

MR. CONINE: Thank you.

Okay. I -- Jim, I still have you donate time to Diana and Mike, and I assume that'll happen when we get to the appropriate agenda items instead of during the public comment period.

That's all the public comment I have for this part of the agenda. I hate to do this, but we're going to take a 10-minute break at this point and come right back. Thank you.

(Whereupon, a short recess was taken.)

MR. GERBER: -- dealing with Wilhoit Properties, request to revise classification. It's addressed to Robbye Meyer, and it says, "Dear Ms. Meyer, I'm writing in support of the Wilhoit Properties, Incorporated, with a request to revise Country Club Apartments' expenses from intergenerational classification to seniors or families.

"Construction was completed on this project and it was placed in service in January of 2008. After 10 months of leasing, Country Club Apartments has been unable to lease the units for seniors. Additionally, all the family units have been leased to income-qualified tenants. These high-quality apartments serve the need of the community for affordable housing, especially those who live below the median income level of Reeves County.

"This revision has much support from the area and will be very well received. There's a great need of this type of housing in our district, and I'm pleased to recommend this revision to the County Club Apartments.

"Thank you in advance for your time and consideration. Sincerely, Carlos Uresti, State Senator, District 19."

The second letter the Board has received is from State Senator Jane Nelson, Senate District 12. It's addressed to me and it asks, "I'm respectfully requesting the Texas Department of Housing and Community Affairs reconsider it's proposal to remove the ex-urban category from the 2009 QAP selection criteria.

"Several years ago the six additional scoring points were added to help encourage the development of needed housing in Texas by cities with populations between

25,000 and 100,000 by making them more competitive with applications for housing in more urban areas. I believe that removing these points from the QAP could have a negative impact on development applications for communities in North Texas.

"I appreciate your time and attention to very important issues in affordable housing. Very truly yours, Senator Jane Nelson."

MR. CONINE: Okay. Thank you, Mr. Gerber, for reading those into the record.

Well, Board members, we'll go to Item 1 on the agenda, which is the consent agenda.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: The Board is asking for approval of the consent agenda, but would ask that items 1(m) and items 1(q) be removed from the agenda and we'll --

MR. CONINE: All right. So then (m) and (q) and do on those separately. Any further wishes of the Board to the consent agenda?

(No response.)

MR. CONINE: Hearing none, I'd entertain a motion.

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Move to accept the consent agenda with (m) and (q) removed. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: There was a second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

All right. Now moving on to item 1(m).

MR. GERBER: Mr. Chairman, actually both (m) and (q) we dealt with at the September Board meeting --

MR. CONINE: Oh.

MR. GERBER: -- so we'll lay those and move on to Item 2.

MR. CONINE: Item 2.

MR. GERBER: There's a little bit of interest in that one.

MR. CONINE: That's good. This sounds like fun.

Okay. Item 2. Mr. Gerber.

MR. GERBER: Mr. Chairman, I'm going to ask Tom Gouris and Robby Meyer to come forward and walk through the staff presentation on this -- I'm sorry, Sharon Gamble is going to take the lead for Item 2(a).

MR. CONINE: Good morning, Ms. Gamble.

MS. GAMBLE: Good morning, Mr. Chairman, Board, Mr. Gerber. My name is Sharon Gamble. I'm the administrator for the competitive Housing Tax Credit program.

We have several amendment requests today. The first one is for Pegasus; it's Number 03184. This amendment request was tabled at the September meeting because the owner requested a change at the Board meeting that staff did not have time to review. The owner is requesting approval to increase the number of tax credit-units from 124 to 129, and reduce the number of market-units from 32 to 27. The increase in tax-credit units was needed to increase the applicable fraction which in turn would increase the eligible basis.

The owner originally requested the five market-rate units that were converted into affordable units were 40 percent, 50 percent, and 60 percent AMGI. The owner is now requesting all five units be at 60 percent. The changes would not have changed the recommendation for an award.

Development architect certified that washers and dryers were installed in all the units. This amenity is a compensating feature for deficiencies in the development as built, and as noted in the Board materials. It should also be noted that the final number of parking spaces was reduced from 316 to 94. The parking ratio of this elderly development was approved by the City of Dallas, and is approximately 1.9 spaces per unit.

Staff recommends approving the request because the substitute amenities of laundry equipment in each unit, along with the additional low income units and lower income targeting that is present. Staff recommends that no penalties be assessed because the request for additional restricted units is being made before the implementation of the change, and other changes are not material alterations of the development, and therefore are not subject to penalties.

MR. CONINE: Okay. I have -- it looks like one witness affirmation form on Pegasus, and that's from Suzy Hudson?

MS. HUDSON: Hello. My name is Suzy Hudson, and I'm just here on behalf of the ownership entity to answer any questions that you may have.

MR. CONINE: Okay. Thank you.

Any questions?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff recommendation.

MR. CARDENAS: Second.

MR. CONINE: Motion to approve staff recommendation for denial. Any --

MS. RAY: No.

MALE VOICE: No.

MS. RAY: Approval.

MALE VOICE: Approval.

MS. RAY: Approval. Approval.

MR. CONINE: I'm sorry. I'm looking at the wrong one. You're right. Approval.

Everybody get panicked over that?

(General laughter.)

MR. CONINE: Motion to approve. Hearing a second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. GAMBLE: Mr. Chairman, our second amendment is for the Mariposa Apartment Homes, project number 04432. This amendment was also tabled at the September meeting because there appeared to be confusion with the size of the two-bedroom units. The owner is requesting approval to change the site plan, unit mix, and number of units.

The owner is also requesting to make a substitution for self-cleaning ovens and microwave ovens that were proposed in all units, but not installed, and a second fireplace that was proposed, but not installed in the club house. Eight of the 180 units were built without the covered balconies or porches that were proposed for all units, and the two-bedroom units were proposed to be 1,050 square feet, and were built with 999 square feet.

Offsetting the deficiencies, documentation indicates that the development was built with some features that exceed the original proposal. The additional features include two additional one-bedroom units which are currently designated as management units, R-15 insulation in the walls with R-30 insulation in the ceilings, and 30-year architectural shingles.

Other additions indicated by the owner include an entry ramp into the pool, dog parks, sun room with complimentary tea and coffee, recreation room with card and pool table and a television, a rose garden, and both a community garden and a walking trail. The owner stated that the site plan was changed to improve the original design, in part by including a central courtyard and adding two one-bedroom units.

The development was awarded tax credits in association with its tax exempt bond financing, and the changes proposed would not have affected the recommendation for an award. The owner believes the Department staff suggested that he delay the completion of this amendment to avoid penalties during the 2007 competitive application cycle.

Staff has recommended the facts as the occurred. Staff recommends denying the request because the changes negatively affect the future tenants without providing sufficient mitigation. Staff also recommends the owner provide additional amenities to compensate for the reduction in square footage in the two-bedroom units, and the lack of microwaves in each unit.

Staff recommends the assessment of appropriate penalties pursuant to Section 50.9© of the QAP because request is made after the implementation of the changes.

MR. CONINE: Okay. A couple of public comments on this one.

Barry Palmer? There's a yielding of time, so Mr. Palmer has five minutes.

MR. PALMER: Good morning, Board members. My name is Barry Palmer, and I'm with the Coats Rose firm, and I'm here on behalf of Mariposa Senior Apartments in San Marcos.

You've previously heard the Executive Director from the Housing Authority come earlier and read a couple of letters from the Mayor and from the Vice Board Chair of the Housing Authority describing this as the jewel of San Marcos, and mentioning that this is the finest senior apartments in San Marcos. Not the finest affordable, but the finest senior apartments that just happen to be affordable.

We're here today talking about an amendment and I'd like to point out to the Board the relevant provision from the QAP that governs the standard to be applied in considering an amendment. The QAP says, "The Board may vote to reject an amendment if the changes would materially affect the project in a negative manner, or it would have affected the scoring in the selection of the project in the competitive round."

Here, this is a 4 percent deal, so the second criteria isn't relevant. And so the only grounds to turn down this amendment is if the Board determines that these changes materially affect the project in a negative manner.

There are two changes that we're talking about. One is the units size. The two-bedrooms were reduced from 1,050 square feet to 999 square feet. The one-bedrooms were increased from 709 to 714. The total square footage reduced by 1 percent in the units and it increased by 3 percent in the common area.

Under the QAP the definition of a material change is when the unit size is reduced by 3 percent or more, or the common area. Here we have units reduced by 1 percent, common area increased by 3 percent. So under the QAP the change in the unit size is not a factor that could lead to the denial of this amendment.

The other issue is the amenities. You've heard that the microwave and self-cleaning ovens were not installed. But instead a whole series of commons area amenities were installed. This includes a movie theater room with theater style seating for 26 with 110 inch projection TV, a card room, a morning room for coffee and socializing, a beauty parlor and barber salon, a dog park, a picnic and grill area with a pond, a paved walking path. All of these were installed at a cost of over $700,000, and I hope that you will agree that these more than offset the fact that microwave and self-cleaning ovens weren't installed.

Now these units all have full kitchens. It's not like they don't have an oven, it's just not self-cleaning.

And I'd also like the Board to waive penalties on this amendment. The amendment was filed after the project was completed, but this was a 2004 allocation that was built in 2005. That was before the adherence to obligation provision was added to the QAP in December of 2006. So to impose penalties retroactively on a project when those penalties didn't even exist at the time the project was built, I believe would be totally unfair.

Thank you for your consideration.

MR. CONINE: Mr. Palmer, what's the down side for us not granting this amendment for that --

MR. PALMER: If the project doesn't get the amendment passed, it won't get 8609s so it won't get it's last equity contribution. They'd be in default under the partnership, the investor could kick out the developer, take it over. So the consequences are disastrous.

MR. CONINE: What percentage of -- how many units total are there in this project again? I can't --

MR. PALMER: 154 I believe.

MR. CONINE: Wait.

MALE VOICE: 182.

MR. CONINE: 182? What would you guess the percentage of -- and this is a seniors project. Correct?

MR. PALMER: That's correct.

MR. CONINE: How many of those folks have probably gone out and bought their own microwave and stuck them in the kitchen?

MR. PALMER: I doubt if any have. But if it is, it's a handful.

MR. CONINE: Okay. And so for us to have a concept to maybe approve these changes with the developer agreeing to go out and buy 180 microwaves at 100 bucks a piece for -- so a bunch of old people can, you know, heat up a biscuit.

(General laughter.)

MR. PALMER: Mr. Shaw, who's the developer, made the comment that most of them show up with their own microwaves.

MR. CONINE: You think they've got them in there already?

MR. PALMER: (No verbal response.)

MR. CONINE: Those are the questions I have. Any other questions of the witness?

MR. FLORES: Not of the witness, but of staff.

MR. CONINE: Okay.

DR. MUÑOZ: I have a question of the witness before I leave here.

MR. FLORES: Yes, go ahead.

DR. MUÑOZ: Okay. Following up on the Chair's question, suggestion of, I mean would you all be amenable to consider those who didn't bring their very large microwaves with them, to providing them?

MR. PALMER: I'm sure that we would, if that is our only -- it sure beats the alternative.

DR. MUÑOZ: Okay.

MR. PALMER: Thanks.

MR. CONINE: Staff?

MR. FLORES: Bobbye, the write up says that there was not sufficient mitigation. In lieu of what you've heard here, what is sufficient mitigation?

MS. MEYER: I would agree with Mr. Conine to provide the microwaves for the units. I mean they have made some compensating factors. One of the main things that you're seeing this for is because of the penalty.

That's the reason why it's on the agenda, because all of these were done without the Board's approval, and the adherence to obligation went into effect in the 2006 QAP.

MR. CONINE: Hold the microphone down, we can't quite hear you.

MS. MEYER: The main reason you're looking at this is because of the penalties that are in process. If there's any penalties, the staff is recommending it comes to the Board. And because of the timing of this amendment, and they did everything after the fact, and they're asking for your approval after the fact, that's why it's in front of you.

If they provided microwaves -- I mean that would mitigating. We would still request the penalty points.

MR. FLORES: Okay. Could I have Mr. Palmer come back, or the developer?

MR. CONINE: Sure. We always love Mr. Palmer to be here.

MR. FLORES: Mr. Palmer, why were all these changes made without requesting approval ahead of time?

MR. PALMER: Well, again, this was a 2004 allocation that as built in 2005. At that time the development community, I believe, didn't realize that you had to come back for changes that they thought were relatively small. Now since that time, when the penalties were imposed in December of 2006, and as we've had some experience with dealing with changes, people are coming back ahead of time.

But back, you know, a few years ago that didn't always happen. Keep in mind, as I talked about the unit sizes, our interpretation of the QAP -- we don't even need an amendment for that. We've reduced the size of the units by 1 percent, and increased the square footage by 3 percent. Under the QAP you don't even need to file an amendment for that.

The only way that you get there is by only looking at the units that were decreased and not looking at the units that were increased, and saying, Well, you reduced some units by more than 3 percent, even though you increased these other units, we're not going to count that.

But that's not the way the QAP reads. It doesn't say "a unit" reduced by 3 percent. It says "units," plural. So on the change in unit size, if somebody had come to me and asked me if they needed to go for an amendment ahead of time, I would have interpreted the QAP as, no, you don't need an amendment for this.

MR. FLORES: Well, that's a nice legal explanation. Very good. The problem is that you're essentially saying that once you get your deal, you can go off and do whatever you want with it. And that, of course, is not the intent. That's pretty obvious. And that is what concerns me, that all these changes were done without approval.

MR. PALMER: Well, I guess, again, we --

MR. FLORES: Are you saying the cut-off date was 2006 and now we'd understand it?

MR. PALMER: Yes, I would say --

MR. FLORES: I wish I'd been a developer back then --

MR. PALMER: I would say that it's not fair to impose these penalties that were imposed and put into the QAP for 2006 to go back and retroactively impose them on deals that, where they were built before the penalties were even conceived.

MR. FLORES: And that magic date was what for the --

MR. CONINE: The bond deal for 2004 is what this is.

MR. FLORES: -- this is a 2004 deal.

MR. PALMER: Right. And the penalties were put in place in December of 2006.

MR. FLORES: Okay. Thank you very much.

MR. CONINE: Ms. Ray?

MR. FLORES: Is there no -- oh, sorry. Go ahead.

MR. CONINE: I think she had a question.

MS. RAY: I think my concern was resolved, about the timing --

MR. CONINE: Okay.

MS. RAY: -- of the issue.

MR. CONINE: Okay.

MR. FLORES: Mr. Chairman, I want to amend that to require the developer to add the microwave ovens to the project.

MR. CONINE: You want to make a motion to approve, subject to adding microwaves?

MR. FLORES: Yes.

MR. CONINE: Is that what I heard you say?

MR. FLORES: That's what I said.

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: There's a second. Any further discussion?

(No response.)

MR. CONINE: The motion is to approve the amendment and no penalties. Is that what I'm hearing?

MS. RAY: Yes.

MR. CONINE: With no penalties. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

Let me -- before you take off on the next one, let me just make sure -- I had a couple of witness affirmation forms from Dan O'Day and Deborah Guerra on the consent items, and everybody's okay, and happy with -- that you got approved. Okay.

FEMALE VOICE: Thank you.

MR. CONINE: Just wanted to double check.

Now, moving on to the next one.

MS. GAMBLE: Mr. Chairman, the next amendment is for Port Royal Homes. It's our number 04489. The owner is requesting approval to change the building count from 12 building to nine building, the unit count from 250 units to 252 units, and parking from 500 open spaces to 250 carports, and 148 open spaces, for a total of 398 total spaces.

The owner is also requesting to change the unit mix from 50 one-bedroom units to 48, from 57 two-bedroom one-bath units to 51, from 57 two-bedroom two-bath units to 70, and from 86 three-bedroom units to 83. The final parking ratio is 1.58 spaces per unit.

The owner stated that the development was changed to accommodate the expense of soils and a drainage feature, and these features were not fully considered at the time of application. The change would not change the evaluation of the application, or the recommendation of the application for an award of tax credits.

Staff recommends approving the request with the assessment of appropriate penalties.

MR. CONINE: Let me see if I've got -- I don't know, because I forgot to look -- I think -- I don't have any witness affirmation forms.

MR. FISHER: Me, Mr. Conine, 2(a) on mine --

MR. CONINE: Mr. Fisher?

MR. FISHER: Yes.

MR. CONINE: All right. I saw one of your -- did you have 2(a) written on the other one?

MR. FISHER: I did. I just had -- I had one I had public comment for help, and 2(a) for at the time of the item.

MR. CONINE: Okay.

MR. FISHER: If I may?

MR. CONINE: Go ahead.

MR. FISHER: I want to -- Bill Fisher, Odyssey Residential. We're the developer of Port Royal Homes.

I certainly echo what Mr. Palmer said, we certainly didn't know if 2005 when we were constructing our bond deals, which are not competitive, that we could not make some changes in our design. Unlike the other project, we have more units, more square footage, every floor plan was increased in size.

At the time we had a 120-day deadline to get our tax exempt bond transaction closed. 500 open parking spaces are in every -- we were required within 48 hours of notice from the Bond Review Board to submit certain volumes of the tax credit app. So what you'd see in the seven bond transactions that our company did in '04 and '05, every one of them has a homogenous portion of those application to trigger our seizing of the tax exempt bond cap from the Bond Review Board.

So staff is recommending it, we didn't make any downsize changes of any kind. In fact, all the amenities are equal to or increased. What we're asking for is that there be no penalty,

MR. CONINE: Okay. Any questions of the witness?

MS. RAY: Mr. Chair?

MR. FLORES: Do you understand now the new rules though?

MR. FISHER: Oh --

MR. FLORES: Okay.

MR. FISHER: -- absolutely.

MR. FLORES: That's fine. I just want to make sure that, you know --

MR. FISHER: No, sir, there's no --

MR. FLORES: -- there's no question --

MR. FISHER: -- misunderstanding.

MR. FLORES: -- what the rules are at this point.

MR. FISHER: No, sir.

MR. CONINE: Ms. Ray?

MS. RAY: Mr. Chairman, given that this also an '04 --

MR. CONINE: Yes.

MS. RAY: -- deal --

MR. CONINE: Yes.

MS. RAY: -- I move that no penalties by assessed, and we agree to staff recommendation to approve the amendment.

MR. CONINE: There's a motion on the floor. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

Poinsettia.

MS. GAMBLE: Okay. The next one, the Rudy Via Real Oak Square Apartments, formerly known as the Poinsettia Apartments, 05025, the owner requested approval for a change in site plan and building plans in order to add office space and central block of an office/club house recreational facilities, and two residential buildings.

The owner moved one of the two residential buildings and stacked it on top of one of the perimeter buildings. In effect, a one-story four-plex was stacked on another one-story four-plex.

Development was completed with the same net rental area as originally proposed but with nine residential buildings instead of 10, and with more office space. The additional 2,578 square feet of office space was for general administrative of the Alamo Housing Authority, as well as to serve tenants of the subject development's 24 public housing units.

The changes would not affect the score of the application, or the recommendation for an award. Staff recommends approving the request with the assessment of appropriate penalties.

MR. CONINE: Okay. Thank you.

A couple of witness affirmations forms, Rick Deyoe and Cynthia Bast.

MS. BAST: Good morning. Cynthia Bast of Locke, Lord representing the project owner in this amendment request.

Back in 2004, our client, Realtex Development Corporation, was selected by four different housing authorities in the South Texas area to develop tax credit housing for them pursuant to a request for proposals. This is one project of those four, so it is a joint venture between Realtex Development Corporation, a full-profit entity, and the Housing Authority of the City of Alamo as the general partner sponsor.

As you have heard, this amendment does involve a change in the site plan, no change in net rentable area, no change in scoring, no change in set asides. But the benefits are that there's additional office space on site for the Housing Authority so that they can directly serve the tenants, and there have been public housing units added to this property to serve even lower income individuals.

Therefore, staff has recommended this amendment for approval, and we request that you concur with their recommendation. However, we do ask for two deviations from staff's recommendation. First, as you know, staff is required to perform an underwriting analysis in connection with each amendment request. In the underwriting analysis that is in your Board book, staff is recommending that the amount of credits for this project be reduced.

Now this project has submitted its cost certification, the accountant's report verifies that it does support the entire amount of tax credits that were originally awarded, and we believe that there are certain assumptions in the underwriting report that merit further attention and discussion before the tax credit award is reduced. Note that 8609s have not been issued yet, so we're still in the cost certification process, and we've made staff aware of our concerns about the deviations in the underwriting report.

So what we're asking is that you not implement staff's recommendation on the tax credit amount at this time, and allow the project owner and the staff to continue to work together through the cost certification process as normal until the final tax credit amount is derived and the 8609s are issued.

MR. CONINE: When do you expect that to be?

MS. BAST: I'm sorry?

MR. CONINE: When do you expect that to be?

MS. BAST: I mean we'd be happy -- I sent Audrey some information, we'd be happy to sit down with the staff and go through any of it next week.

MR. CONINE: Okay. So from your side of the fence you're finished?

MS. BAST: I believe that staff does need a couple of additional things from us. For instance, the recommendation indicated that they weren't quite sure about the project-based vouchers, and we have pulled that evidence and we will get that to them. And so I think that we can do it very quickly.

MR. CONINE: Okay. That's fine. I just --

MS. BAST: Oh, and the other thing is, we are still working on closing our permanent loan.

MR. CONINE: Staff's been kind of busy of late, so.

MS. BAST: Yes. The second request, of course, is no penalties for this amendment request. This situation is very similar to a situation with another housing authority deal that this same client developed in Donna called Mesa Vista, which was a joint venture between Realtex and the Donna Housing Authority.

And, in fact, in January, of this year we brought a very similar amendment request to this Board for a change of site plan and the addition of some public housing units, and that request was changed -- was approved without the penalties. In fact, Realtex actually began working with TDHCA on these amendment issues for both Mesa Vista and Poinsettia at the same time in 2006. It's just that it's taken a while to get through the process, and it's taken Poinsettia a little bit longer than Mesa Vista.

So we hope that you will follow that same track record, approve the amendment, allow us to work with staff on the credit amount, and not award any penalties. Thank you.

MR. CONINE: Rick, any comments?

MR. DEYOE: Yes. A brief -- I've got a handout here. There's -- this handout is -- there's pictures from the property. I just want to make a couple of comments. What we're asking for here is very similar to what we --

MR. CONINE: You didn't identify yourself.

MR. DEYOE: By the way, Rick Deyoe, President of Realtex Development Corporation. And what we are asking here, as Cynthia mentioned, is basically the same amendment request, without penalties, as we did with Mesa Vista, which was a partnership between our company and another housing authority that we served on this Board back in January.

A couple of things to note, back in 2005, when these properties were allocated tax credits, the amendment process was not part of the QAP process. And if it wasn't an adverse amendment to the site plan or to the project, it didn't have to come back before the TDHCA Board at that time. So understanding that now that process is part of the QAP, here we are today with the requested amendment.

Also, as it relates to the reduction in tax credits, as Cynthia mentioned, we are still working with staff. We do have our cost certification. The cost certification for this project and the amount of eligible basis on this project supports actually an increase in credits to 650,000 versus the 626 that the project was awarded.

The 621 that staff is recommending right now is assuming a full -- a conversation at the full loan amount. I will tell the Board that we did have a conversation call yesterday with our permanent lender and it's almost certain that we are not going to be able to reach our full loan amount. In fact, we're probably going to end up deferring more fee than we had originally anticipated.

So if there's any questions the Board has of me, I'm here to answer.

MR. CONINE: Any questions of the witness?

MR. FLORES: Not of him, but if we're ready to discuss the subject matter, I have a point --

MR. CONINE: Okay.

MR. FLORES: -- to bring up. If indeed there's a question of the tax credits, I would suggest that it may be best to delay this to the next meeting.

MR. CONINE: Well, let me -- before we get to that point.

Mr. Gouris, relative to underwriting on this particular project, I'm assuming we're not doing anything different than we normally do under normal circumstances when you looked at the amount of credits on this particular amendment?

MR. GOURIS: That's correct. Tom Gouris, acting Deputy Executive Director for Programs.

We're in the process of going through cost certification and evaluating that. We've come to what we think is a conclusion. They've said, Hey -- once they've seen that conclusion, they said, Hey, that's not the conclusion we want. We can get you more information. We're more than willing to hold off on the allocation amount, the credit amount, in order for them to get us that additional information.

But where we are right now, we've finished our analysis for --

MR. CONINE: So we can approve the amendment subject to the closing their permanent loan and --

MR. GOURIS: Correct.

MR. CONINE: -- you guys coming up with a final number on credits.

MR. GOURIS: Correct.

MR. CONINE: And if it differs from what's in the application, or what -- excuse me, what got approved, then you can come back before the Board and talk to us about that?

MR. GOURIS: They would have a chance to appeal that decision, yes.

MR. CONINE: Any further questions of Mr. Gouris, or anybody else?

MR. FLORES: I'd like to make that motion. Did you say --

MR. CONINE: What motion? Oh.

MR. FLORES: The one you raised a while ago for me that sounded awfully complicated. Go ahead.

(General laughter.)

MR. CONINE: Motion to approve subject to final credit determination to come back before the Board. Is there a second?

MS. RAY: Second.

MR. CONINE: There's a second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

Country Club.

MS. GAMBLE: Mr. Chairman, the final two applications have the same request. The Country Club Apartments, 060125, and Chisholm Trail Crossings Apartments, 060129, the owner requested approval to change the target populations from intergenerational to family. The owner stated the reason for the change was weak demand for the elderly units.

The owner stated that the Country Club Apartments development was placed in service in January of 2008, and only two senior units had been leased and one pre-leased after eight months of leasing. The Chisholm Trail development was placed in service in January 2008, and no senior units have been leased after eight months of leasing.

The change would not change the score of the applications or the recommendation of the applications for an award of tax credit. Staff has struggled with these requests because the market studies supported the demand for the proposed populations to be served at the time of application. However, now the market analyst supports the change in population served because the demand is not what was originally recommended.

Staff recommends denial of these requests because the developments would not be serving the target populations that they were originally proposed to serve. If the Board approves the request, the change in target population will require a change in the recorded land use restriction agreements. No penalty is recommended because the Board's approval has been requested prior to implementing the changes.

MR. CONINE: Okay. I have two witness affirmation forms, both of them Paul Holden, to talk about each of the two projects.

MR. HOLDEN: Thank you, Board. My name is Paul Holden. I'm with Wilhoit Properties in Austin.

And we'll start with the Country Club Apartments in Pecos. As was stated, these are 2006 credits, and this was a voluntary request of intergenerational housing, which we have several intergenerational properties throughout the state, and they've all leased up quite well.

This one, and the one in Vernon, have not. And there's a couple of reasons for it, and the demand in these two areas, they're smaller areas and the demand is not what we thought that it was. We had a market analyst that came in and told us that it was going to be higher than it actually has been.

Because once you get on the ground, the market analyst is only a recommendation, and the reality is, when you have someone leasing on site, and there is no traffic coming through -- we have a beautiful property and all of the family units have been leased and we have a waiting list for the family units on this property.

And what we did is we went back through voluntarily and renotified all of the officials, everyone who was notified previously in the application, we renotified them of the requested change. We scheduled a public meeting for the 28th of October, we had signs posted on the property for the requested change and the public hearing. We also handed out pamphlets to every resident, we had notification in the newspaper.

And on the 28th we had one resident that was there, her son and her daughter-in-law were there, and their concern was we were going to raise the rent, of which we quickly told her there is not going to be any change, there'll be no rent change, and she was happy after that point.

We also have -- within your packets we have a rent roll, we also have certifications for each of the senior residents that are in the building certifying that they have no issue with the requested change. We also have a letter of support from the Mayor of the City of Pecos; we also have support letters from Senator Uresti's office and Representative Gallego.

And the situation on this property is that we're sitting there with a high vacancy. We've been leasing for 11 months now, and we have 11 percent vacancy all due to the seniors property -- or the seniors building, which sits right on a golf course. Very nice property, and everyone who lives there loves it. But we just can't get the traffic in to get the occupancy up to a point that is going to be reasonable.

All we're asking --

MR. CONINE: How many of the 43 units are set aside for seniors?

MR. HOLDEN: Twelve.

MR. CONINE: Twelve.

MR. HOLDEN: Yes.

MR. CONINE: And you just got one leased there?

MR. HOLDEN: Actually we have five --

MR. CONINE: You have five.

MR. HOLDEN: -- a total of five that are leased. And there are no applications pending on the others. There just hasn't been any traffic. We have --

the traffic that we did have come in -- Pecos is an area that is very old oil money, and we have widows come in that say they live off of a certain amount and when do a credit check on them, they have several jumbo CDS sitting that were from their husband, and they don't think they should be counted because they don't live off that money --

MR. CONINE: Right.

MR. HOLDEN: -- which is reasonable. However, income qualification has been a problem, traffic has been a problem. We're asking that the LURA be recommended so that we can lease this to both senior and families and have a combination of the two and --

MR. CONINE: Is that on a first come, first served basis? Is that how you would operate that?

MR. HOLDEN: Yes, it is. We want to lease the property to seniors if at all possible. If we can, we're going to have it all seniors. If we can't, it's going to be first come, first served. And that building is one- and two-bedroom units only, so it'll -- if there are families there, they'll be small families.

MR. CONINE: What would be your thought of cutting the seniors units in half as a for instance, from 12 to six so that there would be at least some left there?

MR. HOLDEN: Well, that would be fine. My only concern now is to get these seven units leased.

MR. CONINE: Right.

MR. HOLDEN: We've got a lot of vacancy for a property that's been leasing and on the ground and cost certified. It's a concern obviously.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Could I ask about -- staff about the market study on this particular deal? Just I hate to fry somebody out here in the open, but I'd just like to know the background of what staff thinks about the market study today versus what you thought before when it was coming through.

MR. GOURIS: Again, Tom Gouris, acting Deputy Executive Director. You know, market studies in rural areas are difficult to do, and I think that the market analyst sent in some information suggesting that he thinks his market study still stands, but the proof is in the pudding, that they weren't able to get tenants for the units.

It's a contradiction that I don't feel very comfortable with, but, you know, I think it's difficult to prove up senior deals in rural areas. You know, you can get numbers to say one thing, but when you don't have -- when you don't actually get the people there, it's says something different.

MR. CONINE: It's hard to tell whether they got CDS or not.

MR. GOURIS: Yes.

(General laughter.)

MR. GOURIS: We are --

MS. RAY: The seniors are there.

MR. GOURIS: -- you know, we have been spending some time with market analysts to try to improve the way we look at senior developments and how we can craft that. We've made a couple of improvements this year we hope in the coming year to work more with them and with a national organization to see if there aren't better ways to model what kind of demand there is for seniors, both in urban areas and in rural areas, but particularly in the rural areas.

MR. CONINE: Okay. Any other questions?

MS. RAY: The only --

MR. CONINE: Yes, Ms. Ray.

MS. RAY: -- question that I have, Mr. Chairman, is the issue of the LURA. Would there be a problem in changing the LURA, if the Board approved the amendment?

MR. HAMBY: Kevin Hamby, General Counsel.

Ms. Ray, the issue of the change in LURA would be to -- there's built in a restriction to the monitor to check to see if a certain percentage of the units have been reserved for 55 plus, and that would be a modification. An amendment though would be added to the back of the LURA and filed in the county records, and that's what the monitors would monitor off of.

So there is a multi-step process that has to be done, but it can be done.

MS. RAY: It can be done. That is my question.

Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move that we approve the amendment and change the LURA accordingly.

MR. FLORES: On both?

DR. MUÑOZ: Without penalty.

MS. RAY: Without penalty.

MR. CONINE: Okay. Your motion would be to remove the senior --

MS. RAY: Intergenerational portion of the senior --

MR. CONINE: Okay.

MS. RAY: -- requirement, in favor of family --

MR. CONINE: Okay.

MS. RAY: -- and that there be no penalties assessed, and that the LURA be adjusted accordingly.

MR. CONINE: Is there a second to that motion.

DR. MUÑOZ: Second.

MR. CONINE: There's a second to that motion. Any further discussion?

MR. FLORES: Mr. Chairman?

MR. CONINE: Yes.

MR. FLORES: A point of information. Are we voting on both, or one?

MR. CONINE: We're just voting on Country Club right now, in Pecos.

MR. FLORES: Okay.

MR. CONINE: We'll handle the --

Ms. Ray, I might offer the amendment of reducing the 12 senior units down to six, so that we would reserve some for senior, we would be cutting them in half, and then we're release the other six to rent to families. I think in the discussion with the developer, he'd said he'd be willing to do that. And I think that would at least get the intent of having some set aside for senior units still out there in that particular project.

Would you accept that as an amendment to you motion?

MR. HAMBY: And before you speak, can I talk?

MR. CONINE: I guess so.

(General laughter.)

MR. HAMBY: Because we have an intergenerational issue here, we have some of the Fair Housing issues with separate leasing facilities that are required separation of the units, because intergenerational under the Fair Housing Act, the 55 plus has to have certain restrictions placed on it in order to meet the Fair Housing Act.

So it's to some degree -- I don't know the design of these properties, whether that could be easily done, but unless that can be easily done, it's probably an all or nothing proposition, just because of the Fair Housing Act requirements.

MR. CONINE: Well, are they not being done currently?

MR. HAMBY: Well, it's being done currently. I don't know how the building's configured. So I don't know if they can take six units -- if it's -- I don't know if it's a multi --

MALE VOICE: The seniors are in one building.

MR. HAMBY: The seniors are all in one building, and so it would be treated as a separate independent Fair Housing unit is what I'm being told by staff. And so if you cut it in half, you'd have to reconfigure that building, because you do have to have separate interests whenever you're talking about Fair Housing Act requirements for 55 plus in order to not be in violation of the Fair Housing Act.

MR. CONINE: Do you mind if I ask the developer if he's got a building that looks like that?

MR. HAMBY: Mr. Chairman, it's your meeting, you can ask him anything you want.

MR. CONINE: Thank you.

(General laughter.)

MR. HOLDEN: Thank you. The building that we're talking about is a different design. It's not a typical garden style. It is a central corridor building with an elevator in it, so --

MR. CONINE: And it's got 12 units in it?

MR. HOLDEN: It has 12 units separating it out. We can't put another entrance in it. If it were a garden style building, it would be different, but this particular building is not.

MR. CONINE: Okay. I'll withdraw my amendment.

MS. RAY: And I appreciate that, because I wasn't going to accept your amendment.

(General laughter.)

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. FLORES: Nobody's checked.

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

Now, onto the Chisholm Trails over in Vernon where there additionally is no more seniors. Is it the same --

MS. RAY: They've got too much money.

(General laughter.)

MR. CONINE: -- the same situation, I presume? Would you like to --

MR. HOLDEN: We do have a similar situation. The scenario's exactly the same, with the exception of out of the 12 units, we have one leased unit, possibly one that is under application right now, but has not been approved.

We've done the very same notifications in our Vernon project, and, you know, we're not noticing the over-qualification as far as income, we're just not seeing any traffic. And we have information in the back of packets that shows all of the marketing that our managers have done over the last 11 months.

We also have letters of support from Mayor Bearden of the City of Vernon, and we have support letters from Representative Hardcastle and Senator Estes supporting the requested amendment.

We also certification from the one senior resident that we have there accepting the change, and bless her heart, her comment was, I'm one old woman in a 12-unit building, and I am so lonesome here. Please get someone in it.

(General laughter.)

MR. HOLDEN: And for that I request a change in the LURA so that we can have someone in there that will talk to this lady.

(General laughter.)

MR. CONINE: By the way, I want to compliment you on your presentation and the amount of folks that you went to see and talk to and get approval from --

MR. HOLDEN: Thank you.

MR. CONINE: -- before you came to the Board. I appreciate you doing that.

MR. HOLDEN: Thank you very much.

MR. CONINE: Any -- is there a motion?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Motion to approve. Is there a second?

MR. FLORES: Second.

MR. CONINE: There's a second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

All right. Moving on to 2(b), the favorite of the day.

MS. RAY: Oh, the fun starts now.

MR. CONINE: Staff presentations.

Mr. Gerber?

MR. GERBER: Ms. Meyer and Mr. Gouris will lead us through this; 2(b), (c), and (d) are really going to be handled together, and we're going to try to walk you through a decision-making matrix that hopefully will give you a sense of the interplay of the issues we're talking about. We have copies of this document available to anyone who'd like one, from Mr. Shepherd [phonetic].

And, Ms. Meyer, why don't you start us?

MS. MEYER: Okay. Each one of the Board members, I placed one of these blue sheets on your desk there so you have a copy of it.

I'm going to walk you through a macro-level of actually what we've done this year. One, so you'll see what we did in July, what you did in July, and then what's happened since that July Board meeting and give you a sense of where we are.

MR. CONINE: Time out.

Board members, make sure you fill out your little lunch thing because we are going to go into executive session at lunch.

Go ahead. I'm the only one left. Okay.

MS. MEYER: Okay. If you'll look on your sheet, you have 2008, 2009, 2010, and then there's some comments down the side here. In 2008, it shows in July what you actually awarded were 49 million -- well, 49.3 million in credits.

Since that time we've had some returns of previous years. One was a 2006 deal, we have four 2007 deals that returned, and then we had some binding agreements, if you remember those from 2006 that were added to the 2008 ceiling, and then we also has 12 awards that you made in July that have since returned. That's something that we don't normally have, but that is for your information.

MR. GERBER: And, Robbye, those returns are generally rural deals or deals in the at-risk set aside.

MS. MEYER: The majority of those, of the '08 transactions are rural transactions and they are at-risk.

MR. GERBER: Which underscores what others have told us about doing deals in the rural communities.

MS. MEYER: That is correct. So you now have approximately 9.2 million that has been returned. There's two decisions you need to make with that money, and you don't have to do it right, I just want to put them out in front of you.

One is to how to use those funds. You can use those to go further down the waiting, or we can use those to allocate additional credits that we're going to discuss here in one of the -- in Item agenda 2(b). So that's one thing you can pull from and that's the 9.2 million.

Also in -- there are a couple of events that happened in July -- well, one in July. The Housing and Economic Recovery Act actually allocated to the State of Texas, or gave the State of Texas an additional 10 percent of credits for 2008 and 2009, and that's approximately $4.7 million that we have for 2008 and 2009, a total of about $9.5 million.

At the September meeting, you made a decision to award additional credits to all the '07 transactions that had not closed. That decision was for 2.2 million, and so that takes part of that 4.7 away for your decision today. And that leaves 2.5 million in 2008. Two decisions with that. Again, you can go further down the waiting list, or you can also use those for additional credits that we'll talk about in Item 2(b).

In October, the President signed legislation 1424, which was the Emergency Economic Stabilization Act, or the Bailout Bill. And in that we also received additional allocation for the state for 2008, 2009 and 2010, and that's approximately 4.7 million -- I mean 14.7 million. We don't have the actual population numbers at this point. Hopefully, we will have them by the end of

November and we'll have a more firm number for you later in the year. But we have approximately 14.7 million in Ike credits.

The IRS has told us that we can swap out those credits, so we could take that 14 million, and anything that we have already awarded out of Regions 5 and 6 and those Ike counties, we can swap for that additional credit that we received. And I'll kind of walk you through what that is.

You've already awarded 12 million, and there's two other remaining applications in Region 6 that could be funded, and that's the 1.5 that you see there. And then the additional credits that you awarded out of the 2.2 million in September, is 854,000; that's also in there. That can all be moved over and used as Ike credits, and then we can carry forward that 14.7 million, or you can use that to go further down the waiting list for this year.

MR. CONINE: Can I stop you right there for just a second?

MS. MEYER: Sure.

MR. CONINE: If I were to look at the waiting list in my Board packet --

MS. MEYER: Yes, sir.

MR. CONINE: -- would those two deals in 5 and 6 be on this list, or not on this list?

MS. MEYER: Yes, they are on the waiting list.

MR. CONINE: They'd be on this list. Thank you. Okay.

MR. GERBER: And the total would 854.

MR. GOURIS: They total --

MS. MEYER: The 1,56 is the two remaining deals, and that -- I do believe it's Vista Bonita and Chelsea Senior. And those are in Region 6. They're the last two remaining applications that were not awarded in July.

MR. CONINE: And did you say Region 5?

MS. MEYER: Region 6.

MR. CONINE: What would be the wrong -- what's wrong with the one in Region 5?

MS. MEYER: The one in Region --

MR. CONINE: Is it not --

MS. MEYER: -- 5 was a do not recommend.

MR. CONINE: Okay.

MS. MEYER: It's on the waiting list, but it is a do not recommend. It's been through underwriting.

MR. CONINE: Okay. Thank you.

MS. MEYER: Okay. We're going to -- and

there's -- okay, so what you have remaining in 2008 at this time to use is 12,079,689. If you go by staff's recommendations. These figures are all based on what staff has recommended to you. So I'll just leave that out there, and you can ponder that for a while.

We'll move on to Item 2(b) now, and that is the credits for the 3221 money, which is all the additional credits that you've heard -- well, part of the public comment that you've heard. I'm sure there's more that you're about to hear.

MR. CONINE: Oh, really?

(General laughter.)

MS. MEYER: I'm sure. Do you want me to walk through the two options?

MR. CONINE: Yes, why don't you go ahead and do that, please?

MS. MEYER: Okay. At the Board meeting in September, you asked us to re-evaluate or re-calculate the credits for all the 2007 deals and all the 2008 deals, and allowing them to use the additional 9 percent rate and to give us adjusted credit prices, and also to re-calculate additional costs in their construction, if they chose to send those in.

Staff has done that. The two recommendations that we're making, one is just the 9 percent increase without a cost increase for construction costs, and that, for the 2007 closed transactions that you haven't done anything with yet, that's for 516,000, and then the 2008 would be 3.2 million, for a total of 3.8 million, in addition to the 2.2 million that you've already allocated in September. So you have a total of 8 million -- 8.2 million, if you use option one.

MR. GOURIS: To go down the waiting list.

MS. MEYER: To go down the waiting list. That's what you'll have remaining. Does everybody understand that?

(No response.)

MS. MEYER: Okay. Option two is to allow everybody the 9 percent increase, and then also a 5 percent increase in their construction costs. And those figures, if you use that recommendation, or that option, we would have remaining 5.7 million to use to go down the waiting list, if that's how you chose to use that.

MR. GOURIS: You could also choose to carry it all forward to 2009.

MS. MEYER: Correct. Staff is recommending option two for Item 2(b).

MS. RAY: The only thing that makes sense.

MR. CONINE: Okay. Any other comments from staff at this point before we start taking public comment?

(No response.)

MR. CONINE: Any questions of staff?

(No response.)

MR. CONINE: Okay. Have a seat.

MS. MEYER: Thank you.

MR. CONINE: Granger MacDonald, with time from Justin MacDonald. Yes, give those to Michelle, would you, please? You got to say please to a big guy like you.

(General laughter.)

MR. MacDONALD: Thank you, Mr. Chairman. I'm Granger MacDonald, a new not-for-profit builder from Kerrville, Texas.

(General laughter.)

MR. MacDONALD: Not an honor I'm proud of actually. Several points. First of all, I do stand to speak in favor of option 2, and the reason why is, construction costs are very hard to figure out in today's economy, primarily because Texas is still on the boom. We've had Hurricane Ike so our construction costs are not reflective of those around the country.

Forty percent of all the construction permits issued in the last quarter were issued in Texas. In the

United States, 40 percent. So we're still on a tremendous construction increase here, so we have not seen any decrease due to subprime lending or anything like that. So we're all out here suffering because construction costs are skyrocketing through the roof.

I think you all might have saw the article in the *New York Times* yesterday that talked about that. I think it was sent to staff. It's very much on target and on point as to what's going on in today's market.

Specifically I'd like to talk about project 07001, Fairway, in Dallas. It was a forward commitment that many of you may not remember. Some of the older Board members might. It came from Mr. Potasnik. It was a forward from '05 to '06 to '07. We took over the project, made our first application, we transferred ownership, this timeline shows, in November, had our application submitted here by the 29th of January, you can follow the dates on the sheet.

We did not receive our final correction on this project, on our amendment, until August, basically the same time that all the other '07s in the regular cycle were getting their approval. We might have been 30 days ahead of them throughout the whole process, but we were on track with all the other '07s from when we took the deal over.

Argument could be made that we shouldn't be subject to any increase because this project, prior to our involvement, got some of the Katrina/Rita increases and then those monies. However, those monies were calculated in our underwriting, and in the underwriting of the deal when the transfer was made to us.

So we feel like that on the date of that transfer to us, which was effective in May of '07, was the date that that project was literally reborn. That's the date -- that's the first time we had the opportunity to do anything with it. So if you figure May 22 -- or, excuse me, May 7, which was the approval date, we were only two months ahead of the people that got an '07 deal in July. So anything that affected the other '07s affected us tremendously.

Since we took it over, we had a loss of credits. We did not get the credit price that we originally closed -- that was in our original application, just like all the other '07s. We've had -- we have not been placed in service, so we don't have any placed in service dates as outlined in House Bill 3221.

The third day we owned the property, we had a fire that burned one building. This has been a lot of fun out there. Trust me.

(General laughter.)

MR. MacDONALD: And because of that fire, we actually lost an additional $200,000 because we were not -- our insurance covered us to rebuild the building as it was. However, the City of Dallas wouldn't let us rebuild that building without springing for it -- make it ADA compliant, et cetera. We couldn't even use the foundation after the fire. That was a $200,000 hit by itself.

Additionally there was -- let me say this gracefully -- some faulty data given to us by the seller as to the amount of the asbestos requirements in the building. We have over $700,000 cost of asbestos. And then unanticipated by all the mechanical engineers, were the complete replacement of the electrical service that cost us over $800,000. We do not have any developer fee, any builder fee, anything. We're in our pocket upside down in this project over $400,000.

All this being said, I think that we should get the same consideration as any of the '07 deals. Mr. Gouris was kind enough to calculate that number for us under option 2, which as I say, is the only option. We would get an additional $109,107 in credits.

Any questions? Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Ron Pegram? This is on the same project. I assume you want to come back up and talk again?

MR. PEGRAM: Yes.

MR. CONINE: Okay. And I have William McDonald, the City Manager, right after him.

MR. PEGRAM: I'm Ron Pegram. I just wanted to address the Board real quickly here with respect to construction costs. I noticed staff's recommending 5 percent, but actually, when I look at what our project was underwritten at, and what our construction cost is today, we're actually seeing a 10 percent increase in construction cost.

And in the packet that I handed out earlier, those numbers are reflected there, and it will give you kind of an indication as to what we're seeing. But there's certainly been a huge increase in cost, and while I certainly appreciate the 5 percent, I just want to make the Board aware that personally, and what we've seen, it's more like 10 percent. Thank you.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: William McDonald?

MR. McDONALD: Honorable Chairman, members of the Board, my name's William McDonald, City Manager for the City of Balch Springs. I'm here to recognize our support on behalf of the City of Balch Springs in the letter that we provided you from our Mayor, Cedric Davis, in support of the Peachtree Seniors project.

This project is very critical for Balch Springs. We're located in southeast Dallas County on I-635 and I-20. We believe this project will be the major catalyst to help southeast Dallas County take off for some of the medical needs of the future of our community.

The City of Balch Springs has made a 10-year commitment for tax abatement to help this project develop. Our Economic Development Boards have committed some $300,000 to invest in the corridor for this project to happen. We've also received from TxDOT a $4.5 million grant program to build service ramps off I-20 for access.

This area can become a future growth, job, employment center for southeast Dallas County. But it all begins with that first project, and that is 144 units of elderly apartments that you all could help us fund.

We need your support and we certainly advise you -- or hope that you will continue to support this project in the future. Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you.

Scott Marks?

MR. MARKS: Scott Marks with Coats Rose, and there was just one recommendation, I believe, in the staff recommendation to you that I wanted to point out and make sure that you're considering that as well in this agenda item, and that is the possibility of allowing developers with unclosed 2007 allocations to be able to return those 2007 allocation and receive 2008 or 2009 allocations.

That's a really important tool for the developers to have in the tool kit, and I hope that the Board will look favorably on that. It's now November of 2008, and so they have a placement in service deadline coming up next year, and that could allow many of the developers to close their deals who otherwise would not be able to close their 2007 deals.

MR. CONINE: Okay. Could I ask a question of staff before we bring up the next witness? What would that number be, just out of curiosity? Do you have that calculated?

MR. GOURIS: I'm sorry --

MR. CONINE: The number of 2007 unclosed credits that are out there, that if we substituted them for another year, how much would that be?

MR. FLORES: I think you've got them already calculated. It's almost $23 million.

MR. CONINE: Is it on this list somewhere.

MR. FLORES: 2007 unclosed, option 2, 5 percent. It's on the sheet.

MR. CONINE: It's what?

MR. FLORES: It's on the sheet, I think. It's got the option 2, 5 percent, unclosed.

MR. GOURIS: Yes, and you're right, I think it's about $22 million in unclosed 2007 transactions, assuming they all want to move forward into 2008.

MR. CONINE: Twenty-two million in credits?

MR. GOURIS: Twenty-two million in credits.

MR. CONINE: Okay. Thank you.

MR. GOURIS: Approximately.

MR. PALMER: Kent, it would be a lot less than that though, because a lot of -- a number of these deals on this list have already gotten an extension --

MR. CONINE: You've got to -- Barry, you've got to come up here if you're going to talk. You can't talk in --

MR. PALMER: Barry Palmer. In response to that question though, a lot of these deals on this list, at least six of them that I know of, that were in Hurricane Ike areas, have already received placement in service extensions. So it would only be -- it would be a lower number than this. It would affect projects that aren't eligible for an extension under the hurricane blank extension.

MR. CONINE: Okay. Got you. Thank you.

Staff could you work on computing that number for later on discussions?

Okay. Tim Lang.

MR. LANG: Chairman Conine, members of the Board, my name is Tim Lang, and I'm the owner and developer of TDHCA 07137, Hampton Villages in Pampa, Texas.

I also want to speak in favor of the reissuance of the '07 credits based on placement in service deadline, so basically echoing the concerns of there previous gentleman.

MR. CONINE: Okay.

MR. LANG: Thank you.

MR. CONINE: Thank you.

Cynthia Bast, Kingsville LULAC Manor, along with Walter Martinez.

MS. BAST: Mr. Conine, I'm [indiscernible] Mr. Martinez.

MR. CONINE: Okay. Walter Martinez?

MR. MARTINEZ: Thank you, Mr. Chairman.

MR. CONINE: You have five wonderful minutes.

MR. MARTINEZ: Members of the Board, thank you.

My name's Walter Martinez. I'm here representing the LULAC organization in its proposed project in Kingsville, Texas. It's project 07199. It's an existing rehab that we are proposing.

After a long two years of work, this application is close to closing, hopefully by next month. Like many others, Kingsville LULAC is not immune to turmoil in the financial markets that has diminished the availability of funds to address needed improvements in this 38-year-old low income family property. We are not asking that our project be treated differently. Rather, that we be treated the same as some of the other projects impacted by the increased development costs as a result of the economy.

If you look at your list in your book entitled, 2007 Unclosed, Option 2, you'll notice that our project, the LULAC project, is the only project not recommended for additional credits. We believe our project has been unfairly singled out.

In across-the-board methodology used for awarding additional credits without taking into account the actual increased costs, negatively affects our project. We believe that it unfairly penalized a worthy project that seeks to modernize an aging, rural Texas property that serves primarily very low income families.

The break down for the -- the unit break down is 56 units at 70 percent, or at or below 30 percent of area median income; 25 units are at 28 percent, it's at or below 50 percent of area median income.

The problem is that, although our credit price has gone up from the original quoted amount, a significant change in the financing structure means that less funding will be available for increased construction costs. This change in financing was necessary in order to retain the interest of investors in a difficult-to-develop rural Texas property.

The LULAC owner, the LULAC organization, a non-profit owner, has agreed to forego its equity in the project and provide some owner financing. A significant cash reserve was structured to further ensure the investor commitments. These necessary changes in the structure allowed us to retain a higher credit price, but reduce the actual funds available for increased cost, construction cost.

In other words, by shifting funds from the deal into a reserve fund to address investor risk concerns, thereby averting a price reduction, we actually have less available for construction cost. If the Department focuses only on the tax credit amount for price and not the overall impact on the funding for the project, we basically end up at net loss.

The bottom line is that, like others, we are facing increasing costs to make this project whole. And that's all we're asking for. Allow us to make this project whole. Granting us an increase in credits will make it possible to address this.

LULAC is asking that we simply be treated the same, that we not be penalized for being creative in salvaging a project that is worthy and that should be included for assistance.

In closing, let me just say that, what we're asking is that in your consideration of the option of 1 or 2, that the LULAC property be -- the project be included in the list for -- applicable for the 9 percent rate and/or the 5 percent cost increase. If that is done, then our project would be made whole.

We submitted the required documentation information to the staff for the construction cost increases, and we hope that you will consider this when you -- this amendment, to the recommendation you're going to make. Thank you.

MR. FLORES: Mr. Chairman?

MR. CONINE: Yes, Mr. Flores.

MR. MARTINEZ: Yes, sir.

MR. FLORES: Did you submit anything in writing to us? Did you submit anything in writing to us?

MR. MARTINEZ: I will give you this -- I'll submit this --

MR. FLORES: You only have one copy, I suppose?

MR. MARTINEZ: No, we have --

MR. FLORES: You have six copies?

MR. MARTINEZ: Yes.

MR. FLORES: I'd like to have that.

MR. MARTINEZ: This is -- it's a summary of the project and it lists the dollar amounts in the --

MR. FLORES: Okay. Now, you can go sit down if you want to, but you might want to be called forward. I want to ask the staff about your comment about being treated unfairly. That's a pretty rash comment, and I'm a little concerned about anybody saying that to our staff and to us, so.

Was Mr. Martinez and this LULAC house being treated unfairly or different than anybody else?

MR. GOURIS: No, sir. What happened is that the syndication price went up instead of down on their transaction. And it went up by such an extent, what they originally had estimated in their -- when we originally took the application in underwriting to now, that there's an excess of funds just from that.

Now other things have happened with their transaction that we weren't -- we haven't been -- we haven't evaluated, which is the case for every transaction, there's lots of moving parts to these transactions.

What we're designing this to do is to treat everyone fairly by saying, Here's how we can give you the 9 percent applicable percentage, here's how we can give you the GAAP loss that you lost from a lower syndication rate, which they didn't have. But they did get the extra 9 percent -- would have gotten the extra 9 percent, except for they get more in equity than they originally planned to get.

And we also, when we looked at it from a 5 percent, even if we increase their cost by 5 percent, they still had much more in additional equity from the higher syndication price than they would have gotten to cover the extra cost. So they would have been made whole and we would be giving them an excess of funds, if we don't look directly at all their other costs and all their other issues, which, again, treating everyone fairly, we haven't been looking at everyone's -- that level of detail. That would be re-underwriting every transaction.

MR. CONINE: I got it. I think I understand. Thank you.

MR. GOURIS: And just to note, that was the only one in the unclosed group, but there were several in the closed group that also don't receive additional allocation because they closed at a rate that was higher than what they had projected when we originally underwrote them.

MR. CONINE: Okay.

VOICE: If I may --

MR. FLORES: Mr. Martinez wants to speak --

MR. MARTINEZ: I didn't mean to impugn the staff's reputation.

MR. FLORES: It came across that way. That's --

MR. MARTINEZ: No --

MR. FLORES: -- why I questioned it, and --

MR. MARTINEZ: -- these projects are so complex --

MR. FLORES: I'm glad to hear that.

MR. MARTINEZ: Yes, these projects are so complex and I know that it takes -- I think the staff has done a wonderful job, but, you know, and it's -- they can't look at every little item in there. But we appreciate your consideration. Thank you.

MR. FLORES: There's a huge number of things that we all are juggling, as you know, and we're trying to do the right thing. It's just a little complicated and some things do fall from the files, but, you know, I hope that at the end, most of you will say that everyone is treated equally.

MR. MARTINEZ: Absolutely.

MR. FLORES: Thank you.

MR. MARTINEZ: Thank you.

MR. CONINE: Kenneth Fambraux.

MR. FAMBRAUX: Kenneth Fambraux, Integrated Real Estate Group. I actually represent, as a general contractor, three transactions, 07204, 07300, and 07289, and then as a developer and general contractor, 08251.

Just to kind of ditto everyone, the Dallas-Ft. Worth area and Houston area, we are actually seeing an increase in the cost from the construction side of, obviously depending on the plans and specifications, of 10 to 15 percent. Staff recommendations are actually pretty amenable.

I would just say that one thing as an amendment to these areas, that we be able to, in addition to the 10 percent or in addition to the 5 percent of construction cost, are we able to come back for, on '07 and '08 transactions, to have things re-underwritten based on syndication prices and construction prices like when we come to cost certification on the development that we'll actually develop on?

I actually have a conference today where we scheduled to close December 15, but equity pricing just dropped four cents on and LOI that doesn't expire until December 15. So until these transactions are actually closed, they're still being repriced. We're having a hard time getting permanent debt spread so Freddie [phonetic] transactions have increased; rates are about 8 percent right now.

So we all know these complications, these transactions have a lot of moving pieces, but this is very difficult to make a right solution without coming back and re-underwriting these transactions at the end of the day. Thank you.

MR. CONINE: Thank you.

Diane McIver. With some time from Mr. Brown, a total of five minutes.

MS. McIVER: Thank you. My name is Diana McIver, and I'm here today on behalf of the Texas Affiliation of Affordable Housing Providers.

Chair, Vice Chair, members of the Board, staff, I believe that earlier this week you all received a letter from Jim Brown giving you sort of a prep for this particular agenda item, sort of a state of our state. We were before you in September on this very same issue of HR 3221. That was our housing stimulus bill that was passed at the end of July. We were elated; we really thought that we had a fix to our problems.

And when we came here the 1st of September, we told you of our issues, and our world has really, really changed since then. Since then, not only did the State of Texas encounter Hurricane Ike, but we saw the failure of Lehman Brothers, of Merrill Lynch, of AIG that happens to own Sun America, one of the large investors in this program, the take overs of WaMu and Wachovia, both investors in this program.

So what we're here today is to tell you that what was bad the 1st of September is horrible and drastic today. We not only have this major, major issue of the tax credit equity investors repricing their deals -- I know they sat here and they said, We're not repricing. But the deals have been repriced. And they've been repriced not just a couple of pennies. You're going to hear about deals that have been repriced at 20 percent, at 16 cents, 20 cents on the dollar. So that's very, very significant.

And other issue is construction prices, and you're hearing that. And though the staff has recommended an overall 5 percent increase on construction cost, which we appreciate, I believe what you're hearing is, in our world, that's not what we're seeing. We're seeing 10 to 20 to 25 percent increases on our construction cost across the board. And it's been worse since Hurricane Ike.

So those issues we need to deal with, and what we would ask is that we appreciate the simplicity of what the staff was trying to do, to do an across the board 5 percent increase in construction cost, and also to do the

9 percent credit. That will fix a few problems. A few more would be fixed if you could see it to do at least a 10 percent increase in construction across the board. That would help also.

An even bigger issue is that we have, in this state, 28 2007 projects that have not been closed. And for those of you new to the Board, this has never happened. It has never happened. In any other year we would have one or two projects that haven't closed. That's the significance of what we have.

Now, a few of those -- and this will answer a little bit of the Chairman's question -- a few of those are actually going to be helped, believe it or not, by Hurricane Ike. There are about nine on that list that actually are in Hurricane Ike counties and will receive the extension to the placed in service. There are another four on that list that are actually forward commitments. And they will be helped because their placed in service date is not until December of 2010.

You have about 15 projects on that '07 unclosed list that are at risk of being totally lost unless that group of credits can be allocated to '08 credits to give them that 2010 date. Or do '09 credits, whatever is out there, whatever you have available. But that is the number, I believe, that you need to get from staff.

Now, the good news about all of that is what you would be doing for those 15 projects, is you would be saving them. And you will not lose those credits to the State of Texas because those credits get recaptured and allocated back into the '09 pool of credits. So we don't lose them, but do preserve that group of projects that is desperately at risk.

And that is one of the most difficult concepts, I think, to be here before you trying to explain because it has never happened, we hope it never happens again, but that extension of placed in service can only be granted by basically recapturing those credits and reallocating them as an '08 and an '09 credit.

So that is basically what I wanted to come before you and talk about. We appreciate the fact that you're trying to do a one-size fits all solution. It won't quite work, but we hope that in addition to a broad policy, that you will listen to the development community and also consider people's requests on a case-by-case basis, because each story is a little bit different, and we definitely do not want to lose that housing in this time when our state so desperately needs it. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Mark Mayfield? Mark has five minutes. We've got Bill Skeen coming up after Mark.

MR. MAYFIELD: Thank you, Mr. Chairman, members of the Board. Appreciate your time. Just a point of clarification -- this is on Item 2(b)?

MR. CONINE: Yes. San Gabriel Crossing is what have down.

MR. MAYFIELD: Okay. I believe you have a copy of a letter in your packet from the Texas Housing Foundation. This is in reference to San Gabriel Crossing, 07220. We were -- this is an '07 deal again -- we were two weeks from closing this deal, already had pulled -- paid for the building permits when all of a sudden our pricing went from 91 cents to 74-1/2 cents.

And we have been somewhat trying to recover and figure out a way to make this thing happen, and we're committed to the project. This Board is very familiar with the issues that we have battled with the City of Liberty Hill, but we've had full support of the mayor and the City Council there, and we're committed to making this a reality.

A couple of the options that are addressed in the letter -- well, without going in and just reading the letter to you, it kind of spells out what -- the chain of events that have happened. But there are a couple of options that we have before you now, which is option A and option B.

Option A being in relation to what is being recommended by staff and the increased credit amount there, but also to make that happened, we have a pending HOME application now that we have supplied to the Department, which will fill that gap and make that project become reality.

Or there's another option that we have before you with our request would be to increase the allocation of credits to $112,000 there, which would work with our current cost, which request was made to TDHCA on the 26th of September. But the real issue before us, again, I'll kind of echo what Ms. McIver just spoke to you about is the placed in service date.

If there's any way that this could be taken from the 2007 to a 2008 deal, we will deliver this project, and not be under the pressure that we would have on placed in service dates.

And I don't need all five minutes. That pretty much spells it out. And we'd appreciate all the help that we can get, and appreciate your time in these times that we're in. So thank you. Any questions?

MR. CONINE: Mark, if I'm hearing you right, if option 2 is what the Board chooses to do, plus creating a placed in service date fixed for you, then you think you can close this transaction and get it started?

MR. MAYFIELD: With the HOME element. It has been -- that would also require the HOME element on --

MR. CONINE: Okay.

MR. MAYFIELD: -- the application that we have pending now, we just submitted last week.

MR. CONINE: Thank you.

Any other questions?

(No response.)

MR. CONINE: Bill Skeen? He's got five minutes as well. Charles Shelton's up next.

MR. SKEEN: Thank you. Mr. Conine, Board members, Mr. Gerber, I'm here to speak on behalf of project number 07093, which received a 2006 forward commitment for 2007. This development is on the same timeline as 2007 applications, although we have applied for, we've been told we could not get the additional credits for this development, which is the main reason I'm here.

I would like to give you a brief outline of the property. It is 106-unit elderly housing development, which has a combination of public housing and non-public housing units for the elderly. Because there's a public housing component, it's very complicated. It deals with a high mix finance package.

Just to give you some details, and I think you've heard from some of the other folks today about the issues with the market and the finances in the housing tax credit industry, we had an LOI on this development with a quality investor that is involved in projects with HUD, mixed finance type of financing in public housing units.

And that investor -- we were getting close to closing, close to having our approval from HUD -- they came back to us and said, We can't pay that for the credits, we need to reduce the amount of the credits. So we went back and tried to restructure it. We have to go back through the approval process. We got ready to go back to HUD with the final package, and they came back to us and said, We're out. They walked the deal.

So we were able to finally get it closed with another investor in June of '08. We had to restructure the financing. It's a very tight deal and we certainly would appreciate the ability to acquire the additional credits for this develop.

And just as one other aside, on a global standpoint, any developer right now that has a firm commitment for credits, whether it's '07, '08, and they need some assistance to try to get their deals completed, you need to seriously consider assisting that process where a lot of these deals, as McIver said, will be lost. Thank you.

MR. CONINE: Thank you. Charles Shelton. He's also got five minutes. You got several people that had that had --

MR. SHELTON: Yes. Thank you.

MR. CONINE: -- donated some time to you.

MR. SHELTON: Chairman Conine, Mr. Gerber, Board members, thank you very much. I'm Charles Shelton, I'm Vice President of Sears Methodist Retirement Center, the general partner in the owner partnership of The Canyons in Amarillo, Texas.

We are one of those '07 projects, number 07219, that did not close, and we are coming to you asking for assistance and help. The Canyons is a seven-story, 80-year-old building. It was the former Northwest Texas Regional Hospital that was converted to retirement housing in the early '90s.

We converted it to an affordable senior housing project in 1998, and have operated very successfully. It's an important part of the housing stock for low income citizens of the City of Amarillo. And if this renovation project does not go forward, we are faced with having to close that building in a couple of years because the infrastructure just desperately needs to be renovated, and some of it replaced.

You have before you a letter from Keith Perry, the CEO of Sears Methodist Retirement System. I would request that you put that into the record, in addition to my comments.

Let me rehearse very quickly what happened to The Canyons. You awarded the 2007 credits in the amount of about $8 million, and we entered into a partnership with PNC Bank, which syndicated the credits to a well-known financial organization that has made headlines in recent weeks, and we were just a few days from closing this partnership when the sky did fall on this project and on much of the financial world, and our partner could not close.

PNC has now repriced the credits at 76 cents on the dollar, whereas we had sold them to them -- or entered into an agreement with them to sell them for 92 cents on the dollar. That's a 16 percent decrease in the amount of equity that we could expect to receive from the syndicator. In addition, our permanent lender has increased the interest rate on our permanent loan by 85 percentage points. And, of course, we have the increase in construction cost that you've heard a lot about already.

In preparation for closing this deal, Sears Methodist Retirement System has invested and expended $1,600,000 of funds in preparation for the closing of this deal. Our lender -- our syndicator partner has expressed extreme distress about the closing date for putting this project into service, so that's another part of our dilemma.

In addition, our administrator, Laura Beck [phonetic], who's here with me today, has vacated the top two floors of this seven-story building in order to enable the contractor to get started on the construction and renovation project.

We were able to find placement for all of those families and individuals who were displaced. Many of them went to the Craig Methodist Retirement Community, which is a market rate community in Amarillo, which we operate. But the project is losing substantial revenue day in and day out because of this low occupancy that we find ourselves in.

But the largest concern that we have is the effect that all of these delays have had on the 88 remaining residents in The Canyons. They don't know if they're going to have a home in a year, or two years. They don't know if they are going to have to be displaced. There's just a tremendous amount of uncertainty and stress. And our staff has worked very diligently to keep them calm and -- but you'll understand, they feel very vulnerable at this point in time.

Without the renovation, as I said, The Canyons is faced with closing in two to three years. So here's out hope and our plea. As Ms. McIver eloquently said, one size does not fit all, and it certain the proposal of the staff does not really fit The Canyons project. Option 2 would leave us 1.7 million shy in sources for this project.

And so it's our request that the Board would direct the staff to re-underwrite this project and recast the credit as '08 or '09 credits to relieve the time bind that we are in. I appreciate your attention, and I'd be glad to answer any questions that you might have.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. SHELTON: Thank you.

MR. CONINE: David Marquez? Three minutes.

MR. MARQUEZ: Hello. Thank you, Mr. Chair, Board. My name is David Marquez. I'm representing Las Palmas Garden Apartments, owned by Urban Progress Corporation, a non-profit that's been on the west side of San Antonio for some four years.

This project was one of the seven that was fitted into the '06 forward commitment for '07. We have not closed to date.

Mr. Chair, if you remember, this is one that I think you were in favor of. After three times of coming up here, we were finally successful. This project has undergone a 13-cent cut in its credits, and so we're setting to close here the middle of December. We're all crossing our fingers.

But we need the additional credits to make sure this project works. I was told yesterday in a phone call that our fee was a little bit too much to be deferred and that they wanted something a little bit more aggressive. And so, you know, like everybody else, we're suffering. And so we're trying to get this project to work. The non-profit and myself are still putting out money to make sure it's a go. We've rolled the dice on it.

You know, it's hot in San Antonio, and, you know, we have no A/C or heat there. And so this is a very poor area of town, these residents have come up here before the Board in the last two or three years, and this has been kind of a quest. We've done it for a while now, and we're not giving up.

The market is what it is, credit's what it is, and we're just asking the Board to look at our project. I think there's about seven on that list that were '06-'07 forward commitments.

We also did the allocation in 12/31/07 and we also did our 10 percent carry-over June 30 in '08. So everything that we have done to date has been as if we were receiving '07 credits. So anyway, thank you, and I hope you keep us in mind.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: We've got Cynthia Bast and Gilbert Pie?

MR. PIA: Pia.

MR. CONINE: Pia. Excuse me. On Oak Manor and

Oak Village.

MR. PIA: Mr. Chairman, members of the Board, my name's Gil Pia, and I'm with Housing and Community Services in San Antonio. And I'm speaking on behalf of Oak Manor/Oak Village, which is a 229-unit complex of which 220 units are project-based Section 8. About 78 percent of the units in that project serve residents below -- who earn below 30 percent of the area median income.

And I kind of came up here with mixed emotions today. You know, when I had to check off am I for or against or neutral, I was in a quandary, because it's hard to say, Gee, I'm against some additional credits, but it's also hard to accept that because it's just not going to pull it off.

And as I've listened to people this morning, it's taken me back to an experience I had years ago in Brownsville when there was a building that collapsed. And we had to go in the building and try to extricate the people that were in there. And if you moved a piece of rubble, it could crush someone else.

And so as I listened to people this morning, we're all in that situation. We're asking you to get us out, and depending on how you move the economic structure that's collapsed around us, some of us may be crushed, some of us may get out alive.

I appreciate the efforts of the staff to come up with an equitable solution, and 5 percent, 10 percent would be better, but either way, sometimes it's not going to be enough. In this case it's not.

And so in some way I'm asking you to -- if we need to take another look at a project. This one, I think, is unique because of the number of people below 30 percent of the median area income it serves, 10 percent of the units are going to be for disabled.

And it's an old project, and it's got the elements you've already heard from everybody, the price of the credits have dropped, and the investor's asking for increased scope, they want a nice project.

So I'm asking you to consider maybe something above and beyond the regular formula, that in some of these cases, and in this case, maybe we need to take a more critical look and consider the specific elements if we're going to preserve not just housing, but these are people and they're in these apartments, and we want to preserve it for them for another 20 years.

MR. CONINE: Thank you.

Ms. Bast?

MS. BAST: Thank you. Cynthia Bast of Locke, Lord on behalf of this non-profit applicant.

I sincerely appreciate how thoughtfully you all are listening to each and every story that is being presented to you. And this is an '08 deal in San Antonio. It does have a syndicator attached to it. The credit recommendation is $207,392, and that does cover the fact that the syndication price has gone from 88 cents to 78 cents, it does cover some of the increased cost that you've been hearing about.

But what it doesn't cover is this, as a condition to purchasing the tax credits on this property, the syndicator came back and said, We want a different scope of rehabilitation. This is a 40-year old property, and the syndicator require that this property have all the drywall removed, everything stripped to the studs, which has residual implications for HVAC, plumbing, electricity, et cetera.

This work was not anticipated in the property condition assessment that was submitted to the Department. It was not anticipated, therefore, in the cost associated with the original tax credit application. But it's necessary to secure the investment capital for this particular rehabilitation.

I would say that the request from the syndicator is consistent with what I'm seeing right now in the market place. They have much more stringent requirements for rehabilitation now, and it all relates to the fact that they can pick and choose whatever deals they want, and they can make the deals fit their specifications.

So upon receiving this request from the syndicator, the applicant went back to the company that performed the PCA and said, If we expand the scope of rehabilitation per the syndicator's request, what would that cost? The answer is, $2,2 million. The data from the analyst, along with an amendment to the PCA, was included in our client's request for additional tax credits.

So the bottom line here is that in order to preserve this 40-year old property to the specifications that are being required by the investor, and to secure that investment capital, the project needs an additional tax credit award of 475,000 instead of the 207,000 that has been recommended.

Our client has provided TDHCA with the back up support for this request, and that amount will cover all of the needs, including the reduction of the syndication price and increased costs. So we hope that you will find that the scope of rehabilitation is beneficial to this property, to the preservation of the Section 8 contract, and ultimately to the residents who will continue to live there and give special consideration for Oak Manor/Oak Village in San Antonio. Thank you.

MR. CONINE: Do you have any questions?

(No response.)

MR. CONINE: I'm going to suspend the public comment now because we're getting close to lunch time. And we have something special we want to do right now before we break for lunch. And I'd like for everyone to remain in the room if they would for just a few minutes.

We will take up and continue with public comment after lunch. We will endeavor to do that by, say, one o'clock or so this afternoon, and continue on with this particular agenda item.

But right now I'd like to turn the podium over to Mike Gerber.

MR. GERBER: Well, if someone could get Brooke out of the cafeteria.

FEMALE VOICE: There she is.

(Pause.)

MR. GERBER: Today is a hard day for all of us at TDHCA, and I think in general in the housing community because a dear friend of ours is leaving TDHCA and on to -- moving on to great things here, we know, with the City of Austin.

Brooke and I have worked together for four years, a little over four years, when I was going other things, and I was very blessed to have her stay and agree to remain as Deputy Executive Director for Programs with the Department.

You can look around this entire state and you can see housing that Brooke Boston has had a hand in getting on the ground. And you can count in the tens of thousands the numbers of low income people whose lives have been better because Brooke Boston was involved with the getting of that deal, the pulling of that deal together. It's an incredible record of accomplishment for any houser, and I think she personifies that term.

I don't think I've ever worked with a more creative and innovative persistent, very persistent and skilled professional. And the Department sees the benefits of that all throughout its organization. I'm a far better, and have been a far better, ED because Brooke Boston was at my side, and I am really forever grateful.

We'll continue to see her good works here in the City of Austin, for those of us who so much love this city. They do so many interesting and progressive things, and Brooke with be the Deputy Director of their housing office here, and we look forward to seeing the fruits of those labors.

But on behalf of a really grateful team at TDHCA, God speed, and thanks for all you've done for us.

(General applause.)

MR. GERBER: We're welcoming back a friend who has had some pipes replaces, some pipes newly cleaned. It's good to see Don Jones, who's also a champion of housing, and has served on the staff of House Urban Affairs Committee and for Representative Jose Menendez so ably.

And I know, Don, you have a special presentation. Thank you. Good to see you.

MR. JONES: And just to prove that the pipes are working, I'm going to stand up here at the podium and ask Brooke if she would come up and join us. And, Mike, perhaps you and Chairman Conine would do the same.

Can you hear me okay?

MALE VOICE: Yes.

MR. JONES: You know, I first met Brooke about six years ago when she helped me write the definition for quantifiable community participation.

(General laughter.)

MR. JONES: And here a couple -- about four weeks ago, three or four weeks ago, I'd just gotten out of the hospital and Michael Lydell called me and told me that Brooke was leaving. And I said, What do we have to do? I said, You better not get your legislative appropriations request in on time? What do we need to do?

But Brooke, I'm sorry that Representative Menendez could not be here. His wife had some medical problems last night and he's back with her at the hospital this morning. So his apologies.

But we'd like to do a couple of things to recognize your service to TDHCA, to the State of Texas, and most of all to the thousands and thousands of families who have been affected because you cared, you made a difference.

The first thing we'd like to do is read on the record, if we're still on the record, a congratulatory House resolution I've had prepared that, as soon as I can catch up with him, I'll get it signed and sealed.

But it's the State of Texas, from the House of Representatives, "Whereas after nearly a decade of dedicated service to the Texas Department of Housing and

Community Affairs, Brooke Boston is stepping down as Deputy Executive Director for Programs on November 13, 2008, to accept a new opportunity.

"And, whereas Ms. Boston joined the TDHCA in 2000 as Housing Specialist and was soon recognized for her skill and insight, she went on to serve as Director of the Multifamily Finance Production Division overseeing federal and state affordable rental housing resources before being named Deputy Executive Director for Programs in 2005.

"And, whereas in that position Ms. Boston has supervised all programmatic, research, and planning activities including multifamily finance, home ownership activities, the Housing Trust Fund, home buyer education, financial real estate analysis, Colonia initiatives, and community affairs programs. Moreover, her efforts played an integral role in state housing legislation that modified the tax credit program, as well as in the construction of 80,000 units of affordable rental housing."

Folks, I could go on and read the rest of this. I think everybody in this room knows how significant Brooke's efforts have been to what you do as stakeholders, as interest in affordable housing and providing for the lower income working families of Texas. I won't belabor the point, other than to say, Very well deserved.

And in addition to it, something that Representative Menendez really likes to do is a Texas flag that has been flown over the capitol where you have served very, very well many, many times. We're going to miss you here in subcommittee urban affairs hearings and elsewhere.

But, "This certifies that the Texas flag presented herewith to Brooke Boston by State Representative Jose Menendez was flown at the capitol of the sovereign State of Texas, in recognition of her many years of service with the Texas Department of Housing and Community Affairs, and to thousands of working families throughout the state. In witness thereof, and pursuant to the authority vested me, I have hereto set my hand and seal of office at Austin, Texas this 13th day of November, 2008, Jose Menendez."

Thank you very much.

(Applause.)

MR. CONINE: Well, I'm one of the lucky few who have been around since Ms. Boston got here, and have seen her really grow to become the person that all of you know that she is, and is a tremendous force in housing for all of the State of Texas. I had to talk her in off the ledge a couple of times, but --

(General laughter.)

MR. CONINE: -- she talked me in off the ledge a few times as well.

But it's been a truly wonderful experience for me, and I will open it up to the Board here in a few minutes, if they would like to say anything.

But I want to just thank you for everything that you've done, for this Department, for the citizens of Texas, and for everyone involved. I think we're all better -- I'm a better Chairman because of you. As Mike said, he's a better Executive Director because of you. And we wish you all the best in the future. Thanks.

(Applause.)

MR. CONINE: Would other Board members like to say something?

Ms. Ray?

MS. RAY: Mr. Chairman, I'm an old federal government hen, and if anybody's ever worked for the government at any level, city, state, or federal, every organization has their own little jargon and things that -- one of the things that I think about particularly when you're dealing with matters of personnel, it's something we call KSAs, and that has to do with knowledge, skills, and abilities.

And those knowledge and skills and abilities are those things that you can quantify, such as education, professional development, and all of those things you can write down on paper that a person brings to the table. And Brooke brings a lot of quantifiable KSAs to the table to support the people of the State of Texas.

But most importantly, and certainly more important than those tangibles and quantifiable things, are those things that you can't write down, the intangibles, the things about relationship building, approach to problem solving.

I've only been on this Board for a couple of years, and Brooke was already here when I got here. But Brooke's approach to dealing with problems is not to be autocratic, but to get all the people in the room that are stakeholders in the problems that we're trying to solve, to bring a solution that best suits everybody.

We're going to really miss you, not for the KSAs, but for the intangibles, a blessing that you bring to this Board. We're going to thank you for who you are, and we want to ask God speed for you and your family as you go forward in serving the people of the City of Austin. We are sure going to miss you, and thank you for being such a blessing to the State of Texas.

(Applause.)

MR. FLORES: Brooke, it's not a real good idea to follow Gloria Ray, because you never can, you know, beat her. I mean she's as good as they come.

But I've been here for three years, and when I came here, the first thing I was looking for was somebody to lead me through the processes, and who I needed to go to who knew everything about everything, plus a little bit that was in the closet that maybe I ought to hear about. And you were the one that led me through this all.

And you were the go-to person and you never had look -- say, I'll call you back, I'll check it out in the book. You seemed to carry all that in your head. So how you do that, I'll never know. But you're the one I depended on for all that time, and I really appreciate it. You were very patient with me, by the way, and I appreciate that because I had no background in this business, as you know.

But I wish you the same thing, God speed, and God bless you, and thank you so much for your help to me.

(Applause.)

MS. BOSTON: I teared up when I did this yesterday with staff as well, so I just can't -- I mean all of you have kind of watched me grow up. I came here a long time ago with my spiky little hair and --

(General laughter.)

MS. BOSTON: -- I've just been very blessed to work with all of the Board members who have come and off the Board, the executive directors, and the staff, of course, and then all of you who really, through your challenges, have helped me become the person that I am professionally.

So I can't thank you enough. You've also been amazing for me in my support in my personal life, and watching my family grow, and my little babies to grow. And also in that regard, Mike has been by far the most phenomenal boss you can imagine as it relates to that. He's been so supportive and wonderful about letting me have a lot of maternity leave.

So I just thank everyone so much, and I'm sure I'll still see you a lot.

(Applause.)

MR. CONINE: You all might be interested to know that while she was out on maternity leave, I asked her to simplify the QAP and you see what that --

(General laughter.)

MR. CONINE: We're going to go into executive session now and try to return at one o'clock the best we can.

So, Mike, you want to go up and read the verbiage that you need to read? Thanks.

MR. GERBER: On this date, November 13, 2008, a regular meeting of the governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session, as evidenced by the following opening announcement by the presiding officer:

"The Board will begin its executive session today, November 13, 2008, at 12:07 p.m. The subject matter of the executive session deliberation is as follows: a) the Board may go into executive session on any agenda item as appropriate and authorized by the Open Meetings Act; b) the Board may go into executive session pursuant to Texas Government Code 551 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or official, including 1) performance evaluation of Michael Gerber, Executive Director; c) for consultation with attorney pursuant to Section 551.071; or d) consultation with Internal Auditor regarding draft audit report on Office of Colonia Initiatives pursuant to Texas Government Code, Section 2306.039.

(Whereupon, at 12:08 p.m., the Board adjourned into Executive Session, to reconvene later this same day, Thursday, November 13, 2008.)

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

(Time Noted: 1:40 p.m.)

MR. CONINE: I apologize for being tardy. The best laid plans of men just sometimes don't quite happen that way.

Mike?

MR. GERBER: Mr. Chairman, the Board completed its executive session of the TDHCA executive Board on November 13, 2008, at 1:32 p.m.

MR. CONINE: We did have a review of the Executive Director during -- where is Sonny when I need him -- review of the Executive Director, which was fun to do while we were off at lunch. And I hear Dr. Muñoz over there wanting to make a motion.

DR. MUÑOZ: I'm make the motion. After review of the performance of the Executive Director, I recommend a 6 percent increase to his salary.

MR. CONINE: Effective 9/1?

DR. MUÑOZ: Effective 9/1.

MR. CONINE: Okay. Thank you, Dr. Muñoz.

Do I hear a second?

MS. BINGHAM ESCAREÑO: I second.

MR. CONINE: Seconded by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: The motion carries.

Congratulations, Mr. Gerber. Thank you for a job well done.

(Applause.)

MR. CONINE: All right. We will continue in the public comment section on agenda Item 2(b). My next speaker is Doak Brown, and it looks like he has five minutes.

MR. BROWN: Good afternoon. My name is Doak Brown. I'm with Brownstone --

MR. CONINE: Pull that microphone right over there in front of you. There you go. Perfect. Thank you.

MR. BROWN: Okay. My name is Doak Brown. I'm with Brownstone Affordable Housing. We have a 2008 allocation for a project called Parkview Terrace, which is a joint venture with the Pharr Housing Authority.

The purpose of my presentation today is to illustrate to the Board why the proposed tax credit increase by staff is not sufficient. The handout I've provided you with explains why the proposal by staff of increasing construction cost by 5 percent, and then applying the full 9 percent fraction is not sufficient.

To illustrate my point, I'm going to use the construction cost information from our 2007 development called Sunset Terrace, which closed in July of this year. It too is a joint venture with the Pharr Housing Authority.

Both Parkview Terrace and Sunset Terrace are essentially identical projects. Both are townhouse style apartments, both are 100 units, and both will have the same floor plans and unit types. Please note that Sunset, which has closed, ended up costing $80.93 a square foot, with contingency. This is well over the cost per square foot that was used at the time of the 2000 application for Parkview Terrace, which was filed in March.

On our Parkview Terrace project, we're estimating costs to be at least 5 percent higher. We believe, based on our experience with the past four to five years of construction cost increases, that costs will probably go up by at least 5 percent by the time we close Parkview, and this is why we feel the cost per square foot at the time of closing will be approximately $85, which is the amount being contemplated in the 2009 QAP for cost per square foot limits.

As you are aware, staff proposed to increase construction cost by only 5 percent. And we are saying that in reality construction costs will probably increase by at least 14 percent from what was submitted at application.

My handout further illustrates that if we go with the TDHCA recommendations, our project is short $482,000 on equity. We requested an additional $65,000 in annual credits that are required to make our deal work. We requested what was required to make our deal feasible, and we still have a 13-year deferred developer fee.

In order to give 2008 deals like ours a fighting chance to get closed, it is imperative that you acknowledge a 5 percent increase is not sufficient. At a minimum, a 10 percent increase in construction must be acknowledged.

Additionally, we encourage you to consider the

TAAHP recommendation that 10 percent may not be sufficient for all deals, and that you would be willing to consider further increases on a case by case basis. This will help compensate for any possible reductions in equity pricing, and not make deals so difficult to get closed.

It's going to be hard enough to get deals closed for the foreseeable future. Please don't make them so tight by restricting the potential equity needed to make them successful. Thanks.

MR. CONINE: Any questions of the witness?

Yes, sir, Dr. Muñoz.

DR. MUÑOZ: I have a question. I recall, Mr. Chair, you had asked for some information earlier to be made available later in the meeting, and I'm not sure if this was a question, but could we ask staff to --

Isn't this issue, Tom, where you calculated option 1, option 2 with the 5 percent increase for construction cost? Could you give us an option 3 with 10 percent increase in construction cost?

MR. CONINE: It's coming.

DR. MUÑOZ: It's coming?

MR. CONINE: It's coming.

Any other questions of the witness?

(No response.)

FEMALE VOICE: Thank you, no.

MR. CONINE: No. Thank you very much.

George Littlejohn. Ike Monty will be next.

I didn't say the 10 percent was coming, I said the calculation was coming.

(General laughter.)

MR. CONINE: They're all grinning like Cheshire cats right now.

MR. LITTLEJOHN: Mr. Chairman, Vice Chair, members of the Board, Mr. Gerber, my name is George Littlejohn. I'm a CPA with Novogradac and Company. We're a third-party CPA firm that specializes in the low income housing tax credit.

I'm here to talk about -- or, and to support the staff in their recommendations, but one item that's not in the recommendations that I think is a big issue is the issue of the 2007 unclosed transactions. I want to build on what Diane McIver told us earlier about the 15 projects that have not closed yet, and do not have an extension of the placed in service date.

Those projects, under Section 42 in federal guidelines, have to place in service by 12/31/09. Many of them will be able to do that. We're giving -- and I understand the Board and the staff are wanting to rescue these projects. However, everything I am hearing from my clients, the industry, the investors, and the syndicators are that when the investors come back, the earliest we can really expect to see a large investment, the large investors really come back in any large scale, is going to be the first quarter of '09.

When they come back, they're going to look at these '07s and say, We can't invest in them because they have until 12/31 and we're worried they don't have enough time. If we're going to rescue these deals, then we have to give them a placed in service extension.

One way we can do that, other states have done it, Mr. Hamby can verify that, and I believe it has been done in Texas, is to allow '07 deals that have not been closed, and possibly others, to give their credits back to the state, be reallocated in '08 or '09, and given them the additional time to build. Right now all we're doing is throwing them a life line, but if we let that rope slip out of our hand, we're not doing these deals any favors.

We really need another year of extension, so my request would be to accept staff recommendations at 10 percent, with possibly some help for those projects that need even more, but add on some provision to allow the '07 projects to give their credits back and to be reallocated out of '08 and '09 so that they can finish their projects the way they were intending to do. Thank you.

MR. CONINE: Thank you.

Ike Monty.

MR. MONTY: Chairman Conine, good afternoon, and Board. I'm here to speak on Spanish Creek Townhomes, TDHCA number 060080. My name is Ike Monty of Investment Builders.

As some of you know, I've been developing affordable housing tax credits for approximately 15 years. I'm grateful for my relationship with TDHCA. The staff and Board have helped me in numerous ways over the years. In turn, I believe that my company has built and maintained quality housing worthy of this program. Yet all of this history is of little benefit when the financial world implodes. Even the most experienced developers are vulnerable.

I'd prefer not to ask for help, but I must for the good of housing, my company, and my employees. Spanish Creek Townhomes in El Paso needs additional tax credits. There's a tremendous need for affordable housing in El Paso right now. The expansion of Fort Bliss has made our city one of the fastest growing cities in the country.

With that growth, more construction activity has caused prices to increase substantially. We have found it difficult to secure qualified subs and must pay premiums to retain them. These increased costs threaten the viability of Spanish Creek Townhomes. We have yet to close our permanent loan on this transaction. You can help us by awarding additional credits, and with your implementation of HR 3221.

I'm asking for an additional 125,000 in credits. The uniqueness of this is that my syndicator has to buy these credits, so it would really help me and the company. And I don't have a 2008 allocation, so this is the only issue that I have in front of the Board. I do have Cynthia Bast, who would like to make some comments about this situation, and Mr. Frank Ainsa, if that's all right with the Chair.

MR. CONINE: I've got Frank here, and I'm sure Cynthia's in here somewhere.

Come on up, Cynthia.

MR. MONTY: Thank you.

MR. CONINE: Yes, she's here. I got it.

MS. BAST: Thank you. Cynthia Bast of Locke, Lord on behalf of Spanish Creek Townhomes.

HR 3221 amends Sections 42 of the Code with regard to the applicable rate used for calculating tax credit allocations. Specifically it says, "In the case of any new building which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and which is not federally subsidized for the taxable year, the applicable percentage shall be not less than 9 percent."

We learned today that the IRS has issued notice 2008-106 indicating that that 9 percent applicable rate is acceptable even if the project owner had locked in the applicable rate at a lower level.

The Spanish Creek Townhomes project consists of 34 buildings. Seven of those buildings are being placed in service after the enactment of HR 3221. Therefore, the applicable rate to be used for those buildings can be 9 percent. However, the applicant cannot benefit from the increase in the applicable rate without an additional allocation of tax credits to be given.

So we believe that TDHCA should consider allowing any buildings placed in service after the enactment of HR 3221 to use the 9 percent applicable rate and receive an increase in tax credits to benefit from that increase as provided under federal law.

MR. CONINE: Frank Ainsa?

MR. AINSA: Chairman Conine, members of the Board, I'm Frank Ainsa. I represent Investment Builders and Mr. Ike Monty. I'm from El Paso. I am here to speak also about Spanish Creek specifically, and I want to go into somewhat more detail than you've earlier.

Cynthia Bast just spoke to you about using the applicable 9 percent percentage for this particular project. I'm here to ask you to include this project, even though it's a 2006 project, for construction cost purposes. And let me give you some details.

This project was awarded credits in 2006. It closed into a construction loan in November of 2006. Construction, however, did not begin until April of 2007 and the project was not finished until August of this year.

I'm going to submit to you that most of the cost increases were due to actions of the City of El Paso in imposing new governmental regulations; the El Paso Water Improvement District in imposing requirements on the developer that were unforeseen and basically unpredictable; and finally, the impact of the expansion of Fort Bliss on construction cost by taking subcontractors out of the market, and making those that were available very much more expensive.

And so as a result of that, Spanish Creek experienced a construction cost increase of well over $600,000. Most of these costs were unpredictable, and they were unforeseeable.

And the problem is, if you're going to help, and I'm asking you this, if you're going to help and throw a life line to developers with 2007 projects because of increase in construction cost, please throw that same life line to those in 2006 who can demonstrate that the very same type of impact affected them, which was unpredictable and unforeseeable for them.

And this is a critical issue because you've heard ample testimony this morning and this afternoon about what construction costs have done, and what the credit crisis has done to the industry. And if you don't help developers like Investment Builders and Mr. Monty, it's very likely that they get out of the tax credit business because it won't be attractive to them anymore.

And so I am here to ask you to please consider modifying whatever policy you may adopt today to include 2006 deals that can demonstrate cost increases that were unforeseeable and unknowable. And give them a chance to come in and get a 10 percent cost increase, or even more if they can demonstrate more. And that way you'll be treating everybody in this industry the same, which is -- very much appears to be the object of this Board.

Thank you very much.

MR. CONINE: Thank you.

Any questions?

MR. FLORES: A question to staff, Mr. Chairman.

Mike, or whoever, Tom, is this allowable, putting a 2006 project into the mix?

MR. GOURIS: Transactions that have been placed in service, or buildings that have been placed in service could be considered, could request additional credits, could have made application for additional credit and could have received additional credits.

MR. FLORES: So the key to it the date of service?

MR. GOURIS: Yes, to have them placed in service, yes.

MR. FLORES: Okay.

MR. CONINE: Raymond Lucas.

DR. MUÑOZ: Mr. Chair.

MR. CONINE: Yes. sir, Dr. Muñoz.

DR. MUÑOZ: Before he starts, just a follow up.

Tom, explain that again to the question that Mr. Flores had in terms of would this be allowable.

MS. RAY: 2006, yes.

DR. MUÑOZ: Because I understood in those remarks that there were seven buildings that were not placed in --

MR. GOURIS: Correct. And they were only asking for the buildings that have not -- that had not placed in service.

DR. MUÑOZ: So the answer is, yes, or --

MR. GOURIS: The answer is that they can claim -- and they can and they will claim the 9 percent --

DR. MUÑOZ: For the seven not --

MR. GOURIS: -- credit --

DR. MUÑOZ: -- yet placed in --

MR. GOURIS: Correct. The applicable percentage will be 9 percent. They will not have an allocation from the Department to cover that, those additional credits that they would be eligible for otherwise, and what they're asking for is to get that credit to fill -- for those seven buildings.

I'm not saying it'll be a very easy thing for us to do, but theoretically it's a possible thing to because the legislation said that they can start claiming that 9 percent credit -- the 9 percent applicable percentage as of the date of the enactment of the legislation. And that's how we'll treat them for 8609s, we'll put in the 9 percent applicable percentage for anything that placed in service after that date. They may not have the credit amount allocated to them to cover that though.

DR. MUÑOZ: Did you want to say something?

MR. AINSA: I just wanted to make clear that what I was asking for, and what Investment Builders is asking for, is not just the application of the 9 percent applicable percentage, but to recover construction costs, or a 10 percent increase on construction costs for the entire project, because the bulk of the construction took place during 2007 and 2008 when the construction cost increases were hitting Investment Builders fully.

And so we're asking for additional credits based upon the construction cost, not just the applicable percentage.

MR. CONINE: He's opening up a whole new category --

DR. MUÑOZ: Okay.

MR. CONINE: -- of projects.

MR. FLORES: He's talking about two different subjects. He needs to separate them out. You know, one is construction cost and one is, you know, the --

MS. RAY: Applicable percentage.

MR. FLORES: -- what's allowable under the new law. And so I think I finally got it separate. We've got to tweak --

MR. AINSA: They're separate issues.

MR. FLORES: Yes, it's just that we're having a little trouble trying to separate out pieces, trying to figure out what to hang on to, but I think we understand. Thank you.

MR. AINSA: Thank you. Mr. Chairman --

MR. FLORES: Thank you, Tom.

No, I don't mean to cut you off, I meant thank you for your explanation.

MR. GOURIS: There's one other note on that though. It would be difficult to dissect what buildings had the cost increase and to allocate those extra cost to just those buildings, or across the board. And I mean this is brand new, so we'd have a lot of thinking to do about it, and probably some discussions with the IRS on how they would see that proration per building.

MR. CONINE: Mr. Cardenas?

MR. CARDENAS: Yes, let me just add, I've seen what Fort Bliss has done to El Paso. It's really -- I don't know if the right word is devastated the construction industry, but it's devastated it in a very positive way. Construction costs have just gone through the roof.

The only way for them to get additional monies is to reapply, is to go through the process for further allocations. Is that correct?

MR. CONINE: That's right.

MR. CARDENAS: Right now.

MR. CONINE: Right now.

MR. CARDENAS: Because I'm -- my experience in El Paso, 10 percent, even -- we're talking 5-10 percent, I think we're looking more like 25 or 30 percent in El Paso right now easily. And I'd like to see what we can do to address special situations like this one.

MR. AINSA: El Paso is a special situation. It's unique in the state because of Fort Bliss and because of governmental disputes that have driven up costs, and these governmental disputes are, in some ways, unprecedented than other places in the state. But they directly affect developers.

And, you know, the final comment I will make here is that it looks like there will be credits available, and if there are credits available, what we're really asking is let us use them, for a developer who has got a long track record here at TDHCA of good development and there's an opportunity here to use those credits.

MR. MONTY: Okay. To answer Mr. Cardenas, Mr. Chairman, in effect it is a reapplication, almost like a lot of the folks that are having to come back. But we regret having to do, but the cost has just been astronomical. Thank you.

MR. AINSA: Thank you.

MR. CONINE: Mr. Lucas?

MR. LUCAS: I'm Ray Lucas, and I'm here today to talk about the West Durango Apartments, project 07198. This project is an at-risk rehab in San Antonio, Texas, 82 units, 100 percent Section 8.

If you ever wanted to get excited about a project with low income folks, this is the project. Out of 82 units, 70 of them are at 30 and below, the actual residents that are living in the units; 12 are at 50 and below. So the whole project's 50 and below by virtue of what the residents actually earn. Most of them don't have bank accounts. I don't know if you guys can relate to these type of residents, west side of San Antonio.

The bad news is, I'm the presenter for them, and they could use a lot better, I think, than my presentation. So I hope you don't hold it against them for that.

We're also converting 10 units to handicap accessability. We are not getting credits, or the non-profit that I represent is not getting additional credits because we had an increase in the credit price. When the credit price issue -- when we were working through the increased credits, we identified some issues like parking, which we thought maybe we could get waived could not get waived, and so we bought the lot next door to incorporate into the project, and the syndicator also wanted that the units be stripped to the studs so that we could eliminate environmental issues.

As a result, we submitted an amendment to the TDHCA. This amendment was submitted in October of '07 and was approved by the TDHCA. It was for those items, and the costs related were in the amendment.

The thing I kind of find fault with personally in the way that this presentation's going on additional credits, is my experience is, when you submit an application and you amend it, the amendment becomes -- the application becomes as amended. And so therefore, using that basis and going forward, this project would get additional credits.

We have had additional costs. We submitted an application. I just pulled out a couple of pages -- I mean additional application. We submitted additional information about the need for additional credits, and have presented those to you. What was not in those costs are some of the issues like relocation costs that we're bearing, we have to house these folks off the property while the units are being renovated, and there probably will be delays in credit delivery, those things are already being absorbed by the developer fee.

So what we're asking for -- and there may be other closed transactions that have the same issue, where they've submitted an amendment, and hopefully you would look at the amended application as the one that you use your base to determine additional credits, because this project could sure use it.

I think that's about it.

MR. CONINE: Okay. Any questions of the witness?

(No response.)

MR. CONINE: Okay. Thank you.

Donald Pace?

Cynthia, I have another one on you for Casa Alton amnesty. You coming up for that? Okay.

MR. PACE: Mr. Chairman, Board, my name is

Donald Pace, and I'm here to represent Tammye's Pointe in Eagle Pass, Texas. I've got the same story; I'm going to make it short.

When I filed the application they had 92 cents; the credits worked. I got my first big -- they bailed out; I got the second LOI, 88 cents, getting ready to close, get a phone call, We're not going forward. So now the time is up to right now, and the best I've got from an equity partner is 77-1/2 cents. It works with the additional credits that we're getting in '07, but I'm out of time.

And like everybody that's speaking, we need the additional time, so I recommend that the Board pass the we turn them back in, get reallocated credits so -- because Eagle Pass had that tornado up there and it really ripped them out. They need housing real bad. And we're doing single family, so it makes it a little bit different than apartments. So we come to you asking for this help, and I think the deals will work.

Our syndicator told me the same thing that somebody said, that after the first of the year, it looks like they're going to have money to buy the credits, and they like the deal. So that's my speech.

MR. CONINE: Good luck.

MR. PACE: Thank you.

(General laughter.)

MR. CONINE: Cynthia Bast.

MS. BAST: Very quickly. Cynthia Bast of Locke, Lord with regard to the Casa Alton transaction.

One thing that I haven't heard discussed in this Item 2(b), but that is part of the staff recommendation is the issue with regard to amnesty. And as you heard this morning, Casa Alton did return credits in 2008, and you have put it on the agenda for December.

But regardless of what happens, we do just want to make sure that Casa Alton is treated the same as its peers with regard to amnesty if that deal does not go forward. And so we ask that you have staff confirm to Casa Alton that it will be subject to the same amnesty as the rest of the group. Thank you.

MR. CONINE: Duly noted.

Last, but not least, Ms. Shelly Gaston.

MS. GASTON: My comments are on the witness affirmation form, so I won't take up the time of the Board.

MR. CONINE: Do you want me to read them?

(General laughter.)

MS. GASTON: We need more money.

MR. CONINE: She wants 10 percent construction cost.

(General laughter.)

MR. CONINE: That's the last of my witness affirmation forms on Item 2(b), unless somebody knows of any others laying around out there.

(No response.)

MR. CONINE: Okay. Staff, back up to the podium I guess. We'll open it up for questions from the Board members at this time.

MR. GOURIS: So do you want the 10 percent number?

MR. CONINE: That's a good start, I guess.

MR. GOURIS: Without considering the '06 that got an '07 forward, and we think there are eight of those, some of them spoke to us today, we'd have to do some more investigation on which ones have placed in service, or haven't placed in service. And they just didn't -- they weren't in the eligible pool, so they didn't give us some of the information, so we haven't included those in this number. But the --

DR. MUÑOZ: That was for the '06 deals?

MR. GOURIS: The '06 deals that went into '07, got an '07 allocation. The 10 percent increase would be

8,912,717, which would leave approximately $3 million to go down the waiting list.

MR. CONINE: Okay.

MS. RAY: But that doesn't -- Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: May I address this?

MR. CONINE: You may.

MS. RAY: But that does not include the 2006 project that we heard from El Paso?

MS. MEYER: That's correct.

MR. GOURIS: Yes, that would take --

MS. RAY: That will have to be looked at separately?

MR. GOURIS: Yes, ma'am. And there are probably a number of -- if we were going across the board with that approach, there would probably be a number of folks that we'd need to. That has not been anything that we've calculated or tried to estimate a calculation for at this point.

MS. RAY: Well --

MR. GOURIS: It'd significantly increase the difficulty --

MS. RAY: -- my concern on that particular project is that particular project came to us at this meeting. Could we put that project on the December agenda to look at that one?

MR. CONINE: Sure we could.

MS. RAY: Okay. Thank you.

MR. CONINE: Could we, in the write-up -- and I think I recall there was no staff recommendation, or there was a couple of options relative to the '07 forwards that were issued in '06. How many of those deals did we have?

MS. MEYER: There's eight.

MR. GOURIS: Eight.

MR. CONINE: There's eight.

MR. GOURIS: Three have spoken to you today --

MR. CONINE: All right.

MR. GOURIS: -- I believe.

MR. CONINE: And you don't have any sort of number currently. Do you know if those eight have -- what the original tax credit allocation was?

MS. MEYER: You want them individually?

MR. CONINE: No, just give me a round number total amount.

MR. GOURIS: We're still working on that.

MR. CONINE: Why don't you all sit down for a few --

DR. MUÑOZ: Wait, before they do, sir, can I ask a question?

MR. CONINE: Yes.

DR. MUÑOZ: You'll forgive the way this is structured, Tom, part of it is my recent seat to the Board. Here's my question. What I've heard is that 5 percent is generally inadequate because -- of construction cost, and that 10 percent is only slightly less inadequate.

Is there a possible scenario where 10 percent -- I mean if that's the number that the Board agrees to, would be allocated for increased construction cost, and some portion of that three million that would remain for -- would be considered for exceptional cases where construction cost have, for example, increased as much as 30 and 40 percent as Mr. Cardenas alluded to?

I suspect that there are some areas that could very easily demonstrate construction costs have well exceeded 10 percent. Could some portion of that three million be parceled out for individual consideration of very unique cases? I'm not trying to sort of exacerbate your explanation, but I just can't help but think that we've got to be creative about providing relief.

MR. GOURIS: I'm not sure how you -- I'm not sure that we have a system or a process that could fairly distribute that $3 million, because --

DR. MUÑOZ: Or some portion of it.

MR. GOURIS: Or some portion of it, because I'm not -- you know, we do have a process and, you know, a whole slew of rules that help us go through and allocate funds, and the public knows how we're going to do that. It's difficult for me to see how we would do that now for these additional transactions that are hardship transaction, that likely are hardship because of specific issues with those transactions.

In many cases I suspect that they had some issue with site work that they hadn't known about when they started the process, that that might be why they're 30 percent higher. Or they might have some issue that -- but these are all things that are part of the development process, you know, part of the developer's risk, and that's why they have a developer fee, that's why there's -- you know, all these things are in place, and we know going into it how we're going to look at that, and the public knows, folks that are applying know this is how we're going to go into that.

I don't know how we would allocate additional funds to them and give any certainty to the public about how we add that additional allocation. That's a real concern from a, you know, transparency and from a, you know, giving everybody a fair shot.

Can I throw you the 10, or the eight deals, the '06 --

MR. CONINE: Yes.

MR. GOURIS: -- the original allocation amount was about 5,108,000 for those eight deals.

MR. FLORES: Say it again, that number?

MR. GOURIS: Five million one oh eight. That's how much in original allocation, so if you took, say -- estimated, say, 20 percent because -- remember, when we say a 5 percent increase or a 10 percent increase in the cost, they're also getting the increase from the 9 percent applicable percentage which increased it, and the increase based on the GAAP.

So some deals, even though they're getting a 5 percent increase in construction cost, you'll look at that chart and you'll see that some of them are actually getting 20 percent more in credits. So some are getting less, some are getting more, but it's all relative to their deal's needs based on what they originally proposed.

MR. CONINE: Okay. And because -- I was just sitting here thinking, because of what our decision is going to be on 2(b) will affect the down the line folks, the waiting list folks, I think what I want to do is go ahead and go to public comment for Items 2(c) and 2(d), which would give us some feeling of some of those that are on the waiting list who might want to participate or can participate or can give us some sort of feedback or indication relative to the entire pot, before we make up our mind on the piece.

If the Board would indulge me in such.

Mr. Cardenas, yes?

MR. CARDENAS: I'd like to make one final comment on this Fort Bliss issue. This -- you're a numbers guy, and I'm lucky enough to be involved in it. We're putting -- Ike Monty's deal is an '06 deal, the construction of Fort Bliss started in '06 --

MR. HAMBY: I'm sorry, Mr. Cardenas, you say you're involved in this deal?

MR. CARDENAS: The Fort Bliss project. I'm sorry.

MR. HAMBY: Okay. Not --

(General laughter.)

MR. CONINE: Thank you, Counsel.

MR. CARDENAS: Thank you for that clarification. I'm involved in the Fort Bliss project.

MALE VOICE: A similar deal.

MR. CARDENAS: Well, it's not even similar, but we're putting 18- to $19 million into the ground every five days. By the spring of next year we'll have put in about $38 million into the ground every five days. And it's eating up construction materials, it's eating up labor, subcontractors, et cetera. So the impact to El Paso, because of Fort Bliss, is, I think, unique compared to the rest of the state.

MR. CONINE: Probably so, and then the Houston folks and Galveston folks would say that Ike is unique, and it's -- you know, we get all kinds of unique stuff going on all over the state. And I'm not sure on the fly we can adapt to every situation out there.

MR. FLORES: Mr. Chairman, may I ask another question of Tom Gouris?

MR. CONINE: Certainly.

MR. FLORES: Tom, going back to Dr. Muñoz's question, and if indeed, you know, we allow this special case, you know, addendum to whatever we pass here, what will be the number of potential candidates that would be out there going after this whatever it is, 3-, 4-, $5 million? Everybody in the room?

MR. GOURIS: Yes.

(General laughter.)

MR. GOURIS: I think right now you'd get, you know, half the room to raise their hand, and after they thought about it for a little while, you know, once we get to asking for the information, maybe a little more would raise their hand. It's hard to know.

MR. FLORES: I get the idea, Dr. Muñoz, that, you know, that's one suggestion, you know, trying to do the right thing. However, I don't know that I have enough time to listen to all of them, and I don't know anybody else who wants to go through all that, because you're going to be in the same -- you're going to be dropping one pebble in the sea. You know, it just won't be very much.

So we have to come up with a system, hopefully as fair as we can, but I'm afraid we're going to have to come up with a system. Whether the best wind up there or not, but there's certainly more than enough candidates out there that I cannot believe there would be one that would not be worthy of the additional credits. So that's my response to --

MR. CONINE: Okay. Let me move on to the additional public comment that I want to get to. In going back through all these that are still left, I found one from Jim Brown giving time Mike Sugrue.

And, Mike, I haven't found your basic witness affirmation form yet.

MR. SUGRUE: It should be on 2(d).

MR. CONINE: 2(d). Okay. So you'll probably be coming up here shortly then.

And then Mark Walcot [phonetic] I also skipped. You were in the -- you had a --

MR. WALCOT: I'll pass.

MR. CONINE: You're going to pass. Thank you, sir.

Ken Mitchell?

MR. GERBER: Mr. Chairman, this is public comment on 2(c)? I was trying to -- for tracking purposes --

MR. CONINE: Okay. Yes, we just moved to 2© now

MR. GERBER: Okay.

MR. MITCHELL: I'm Ken Mitchell, Benbrook, Texas. I'm here to speak on the Grand Reserve Seniors in Waxahachie, Texas, 08100.

I feel a little behind all these people who've spoken today. They seem like they all want more credits, but I never got my deal approved to begin with, so I'm starting from scratch. I'm on the waiting list, and after I've seen how many problems they have, I'm going, Well, is this a good deal or not, you know.

But I do want to go forward with my deal, and I do have a handout here. We put a lot of work into this project. It is a Phase II to Phase I. Phase I is Country Lane Seniors in Waxahachie. It's a rural deal, it's a small project. It's senior citizens housing. We've done very well there. We have the complete support of the city.

We scored very high. In fact, we score 197 points. We were in a set aside that they only had $600,000 in credits for five applications, so we didn't have a very good chance of getting our allocation on the first round.

The first thing here is my equity commitment. I have a firm equity commitment to provide the money for my project. And that's very good in these days. The second thing is I have a syndication letter my equity provider, so I have the funds available to go through with my project. I have the funds today, but if I have to reapply, who knows. I mean the credit prices are going down and financing may get hard to get. So I really hope that we can work this out this year.,

My first picture. On the picture right here is the senior citizen center of Waxahachie. Waxahachie liked our project so well, that they decided to build their new senior citizen center right by our apartments. And this is Country Lane Seniors right here, and the Grand Reserve will go right in the middle.

So this is a good thing that the seniors will get to live right across from the senior center, participate in all their activities every day, and that's one thing that we're trying to do is to give the seniors quality of life.

The next picture is Country Lane Seniors, and you can see, it's done in Victorian style, it's very, very beautiful. And this is our club house, and this is our foyer, very, very attractive. We leased up in 60 days. It's just incredible. And so we'll have Phase II, and we want to connect the two. And this is our dining room, we have a full kitchen so we can cook food on site. This is our library right here. This is our game room, pool table, poker table; they like that. This is our coffee shop; they'll enjoy coffee. This is our pool, and everything is handicap accessible.

So I know that in listening there's a lot of discussion over who gets various credits. But I hope that you will provide some credits for this project on the waiting list. Now my land is zoned, I don't need any extensions, I own the land so I can transfer it this year. I can meet the carry over by December, I can pay my fee, and I do not need any extensions.

So that's my presentation, and I guess in December we might know something hopefully.

MR. CONINE: You'll know something.

MR. MITCHELL: Know something.

(General laughter.)

MR. CONINE: I promise you --

MR. MITCHELL: Well --

MR. CONINE: -- you'll know something.

MR. MITCHELL: -- I really appreciate your consideration,

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Andrew Bifford -- Blifford?

MALE VOICE: I'm sorry, he had to leave.

MR. CONINE: He had to go. Okay.

MR. GERBER: I would just add that Andrew is with Representative Jim Pitts and Representative Pitts has spoken of his support for this project.

MR. CONINE: Okay. That then concludes all the ones I have for 2(c), which was essentially the waiting list. And I just wanted you guys to hear some of that before we went back to 2(b), which is now what we're going to go back to.

Thoughts, questions, scenarios? We determined that the '07 forwards that were issued in '06 would be probably a million dollar hit to the -- plus or minus to the Fund. We -- under option 2, the staff has put forth as a recommendation with the 5 percent cost increase, we're burning up 6.3 million. With the 10 percent cost increase it would 8.9 million. We have a total of 12 million plus or minus.

We've heard that the, once again, that the '07 forwards need some help. We've heard in some cases where the -- I think was there two cases presented with the credit increases worked in their reverse?

MR. GOURIS: There was one unclosed '07, and I think there's several closed '07s.

MR. CONINE: That had credit increases?

MR. GOURIS: That their credit pricing increased.

MR. CONINE: Credit price increased, yes.

MR. GOURIS: And that would not have given them any relief.

MR. CONINE: Okay.

MR. FLORES: Mr. Chairman, I'm ready to make a motion to adopt the staff's recommendation for Item 2(c).

MR. CONINE: Mr. Flores, go ahead.

MR. FLORES: I so move.

MS. RAY: With 5 percent or 10 percent?

MR. FLORES: With 5 percent.

MR. CONINE: What do you move, five?

MR. FLORES: For staff's recommendation, 5 percent.

MR. CONINE: He moves staff recommendation at 5 percent. Do I hear a second?

(No response.)

MR. CONINE: Motion dies for lack of a second.

MS. RAY: Mr. Chairman?

MR. CONINE: Madam -- Ms. Ray.

MS. RAY: I move staff recommendation with a 10 percent increase in construction cost.

MR. CONINE: Motion's been made for a staff recommendation plus a 10 percent cost increase.

MR. FLORES: Does that include the amnesty period, Ms. Ray?

MS. RAY: Yes.

MR. FLORES: I'll second --

MR. CONINE: The amnesty --

MR. FLORES: -- the motion --

MR. CONINE: -- period -- wait a minute.

MR. FLORES: Second the motion.

MR. CONINE: What amnesty period?

MR. FLORES: It's on the -- the recommendation, it says, Staff recommends that the extension of the amnesty period to --

MR. CONINE: Oh, yes.

MR. FLORES: -- 2008.

MR. CONINE: Through November 20?

MR. FLORES: Yes, sir.

MR. CONINE: Okay.

MR. FLORES: Unless there's another date that you would like to suggest, Mr. Chairman.

MR. CONINE: I think Mr. Flores seconded the motion, if I heard it right.

MS. RAY: Yes, he seconded.

MR. CONINE: Any further discussion?

MR. FLORES: Is there any reason to extend the amnesty date any longer than that?

MR. CONINE: There was -- refresh my memory on the --

MR. FLORES: Is that enough adequate time I guess is my question.

MS. MEYER: It had to do, I do believe, with Casa Alton, if I'm right. They asked if you decide something different on the December meeting with Casa Alton, that you would allow them to still return their credits during the amnesty and not --

MR. FLORES: I'm having trouble hearing you, Robbye, I'm sorry.

MS. MEYER: I'm sorry. With Casa Alton -- am I right -- they had asked if they returned -- if the Board decided in December something different than what they could actually do, that they would still be allowed to be under the amnesty and be under the amnesty from when they return their credits the first time, when they returned the first time.

MR. FLORES: Therefore they would require a December date --

MR. CONINE: Oh, I know what it was.

MR. FLORES: -- it looks like.

MS. MEYER: If you do something different in December, that's correct, they would want you to --

MR. FLORES: Is there a problem --

MS. MEYER: -- they want to be included in the amnesty.

MR. FLORES: Is there any problem with

extending the date that --

MR. HAMBY: Mr. Flores, I think the issue becomes how -- if everything is dealt with today, which obviously Casa Alton can't be because it's on a future agenda already, you can make an exception in their case. But if everything is dealt with today and finalized today, then the five days is adequate after this meeting.

If you still have some carry over or bleed over questions that go into December that you want to see some specific deals redone, or questions answered, then you probably would have to beyond the December meeting.

MR. FLORES: Okay.

MR. HAMBY: And you could probably do the amnesty as a separate motion since it's been posted on our agenda today, after you do 2(b), 2(c), and 2(d).

MR. FLORES: But it only affects that one particular project.

MR. HAMBY: At this point.

MR. FLORES: Yes.

MR. GOURIS: Well, no, there -- actually there's some others that have suggested that if they --

MR. FLORES: There are others. Okay.

MR. GOURIS: -- if the amount isn't sufficient, that they would like to see an amendment be presented, and they would like to see the amnesty then --

MR. HAMBY: But at this point it only affects that one deal because that's the only one you put on the agenda for December.

MR. FLORES: Mr. Kilday is over there raising two fingers at me, so I don't -- I would imagine that he knows a little something that we might not know.

MR. HAMBY: Currently there's only one deal that you all put on the December agenda that it would impact. You may make a change on that again, that's the closure part today that makes a difference.

MS. BINGHAM ESCAREÑO: Mr. Chair, I have a question. Did that include the '06 that Tom estimated the million -- the motion did not include the '06s?

MS. RAY: The one that we heard today from El Paso?

MR. CONINE: No, the concept of the '06 -- the '07 forwards that were issued in '06, which there's eight of, I don't think that was a part of his motion.

MR. FLORES: It wasn't my motion.

MR. CONINE: I mean her motion. Excuse me. If you clarify --

MS. RAY: That was not --

MR. CONINE: -- your motion --

MS. RAY: -- part of the original -- the staff recommendation.

MR. GOURIS: It was not.

MS. RAY: And the only thing my motion deals with is the approval of the staff recommendation at the 10 percent. If that was not part of the staff recommendation, it does not.

MR. CONINE: Oh, no, that -- we can make multiple motions here.

MS. RAY: I'd have to make another one for that one.

MR. FLORES: Can we add that project to it?

MR. CONINE: Excuse me?

MR. FLORES: Can we add that 2006 project to this list?

MR. CONINE: No.

MR. FLORES: No?

MR. CONINE: Not right now.

MR. FLORES: Okay. That's what I thought.

DR. MUÑOZ: But we can in a future motion.

MS. RAY: Right.

MR. CONINE: In the future, later in a future meeting. I don't think we can at this -- but --

MR. HAMBY: You can do it at this motion if she wants to amend -- if Ms. Ray wants to amend her motion, because you could add those, all the 2006s to be treated as 2007s. That doesn't have the carry over affect because these are all --

If I'm understanding your question, Mr. Flores, the 2006 forward commitments that were given forwards for 2007 would then just be treated as a 2007, so they would get the 10 percent and the increase, if that's indeed how you want to treat them.

MR. CONINE: Right.

MR. HAMBY: They could have a separate motion as well.

MR. CONINE: She's saying she --

MR. HAMBY: But currently it doesn't have it.

MR. CONINE: Right.

MR. FLORES: Ms. Ray, did you get all that?

MS. RAY: Well, I understand --

I didn't do it.

(General laughter.)

MS. RAY: Now I've forgotten what my understanding was.

(General laughter.)

MS. RAY: My understanding, the discussion about the 2006 -- or the 2006 deals that got forward commitments in 2007 did not include all of the 2006 deals that we discussed here today.

MR. GOURIS: That's correct. There are two groups.

MS. RAY: There's two groups.

MR. GOURIS: There are two groups of 2006, we didn't include either of those groups in --

MS. RAY: In this staff recommendation.

MR. GOURIS: Correct.

MS. RAY: Okay. Well, my motion --

MR. GOURIS: The 2007 that got allocated and awarded in 2007 is what was in our Board book.

MS. RAY: Given -- this keeps getting deeper and deeper and thicker and thicker.

Mr. Chairman --

MR. CONINE: Yes, Ms. Ray.

MS. RAY: -- based on what Kevin said, I guess I would have to hear from staff whether -- if I amended my motion to include the 2006 deals that got forwarded to 2007, how that would affect that recommendation, or, in your opinion, should we handle that as two separate motions?

MR. GOURIS: I think I'll leave that to Kevin to give you an opinion. I think the affect would be --

MS. RAY: Should I tell you what the effect is?

MR. GOURIS: It's just that --

(General laughter.)

MR. HAMBY: The winner is --

MR. GOURIS: Yes, the effect would be an additional $759,000, but that, again, is an estimate based on not having new syndication prices from all those eight deals.

MS. RAY: Then if we're talking about 700 plus thousand dollars, I would not have any objection to amending my motion to include those 2006 deals that got forwards to 2007.

MR. HAMBY: And just for clarification, 2008 were included in the staff recommendation.

MR. GOURIS: That's correct.

MS. RAY: Yes, I knew that. Yes, I knew that. I knew the 2008s were in there. We're just trying to clarify the 2006. Right?

MR. CONINE: I think she did, at least the Chair recognizes that she did. If you second --

MR. FLORES: Yes, I second her amendment.

MR. CONINE: All right. So now we've got the --

MR. FLORES: Now we've got it. Now we got it.

MR. CONINE: Now we've got the '07s forwards into the motion.

MS. RAY: Got it.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: I'll go ahead and can get this one voted on. All in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

(Applause.)

MR. CONINE: Okay.

MR. FLORES: Some people liked it.

MR. CONINE: Now who'd we leave out?

(General laughter.)

MR. CONINE: I still have a little bit of heartburn on the placed in service issue with the '07 deals.

And I think, Kevin, can you clarify for us the issue of having 22 or 28 or however many projects turn those back into '08 credits, let's just say for an example to talk about, to get them a placed in service date of 2010?

MR. HAMBY: Well, I believe you can do it according to the federal laws. My concern at this point is we have state statutes, and one of the state statute requirements if you're giving awards, we have to have public hearings and notification requirements for people who have asked it.

These are not on the waiting list, so they've not been given -- no one's been given notice at this point that these could come up. They could receive opposition because you are giving them a new award. You're basically getting rid of their 2007 commitment and then giving them a 2009 commitment.

And so I probably need to have some conversations with the Attorney General between now and the December meeting to see if they think it violates state statutes, not federal statutes as to whether or not, because it's like having an individual round because you're awarding 15 -- up to 15 different awards. And so there's a timing problem. I just -- I didn't know we were going to do this. I haven't cleared it with the AG.

MR. CONINE: And the fact that the applications aren't applications in the definition of the word application because they were '06 --

MR. HAMBY: They were '07 deals --

MR. CONINE: -- '07 deals.

MR. HAMBY: -- that are not on this waiting list, so no one would have had any notice that they were going to do it. We've never -- like we've done it once in Texas.

MS. BOSTON: [indiscernible]

MR. HAMBY: The short-timer here wants me to do something.

(General laughter.)

MR. HAMBY: Back from the dead actually. You're already gone, so here you are again.

No, her question was can we do it conditionally. I assume the Board would like to know whether or not -- how they need to treat this one way or the other, and our Board meeting is -- December 18, I believe is our next Board meeting. You can certainly do it conditionally, approve those -- that transfer.

Again, we've not done it in Texas, we've certainly not done it to this extent. We've had two that I know of that have been done, one of them dropped and the other one we got sued over.

(General laughter.)

MR. HAMBY: So I would not feel comfortable telling the Board, Yes, go ahead and do it. If you want to do it conditionally on working with the AG, but then that requires me to get an AG opinion. I can get an informal opinion between now and December because an official opinion of the Attorney General takes about six months. They're allowed 180 days. I'd like to at least have the opportunity to discuss it with the administrative law division, having come from the administrative law division, I know the director of them, and I think I can get a fairly quick answer and a fair quick discussion as to how they feel this would play in the state statutes.

MR. CONINE: Well, let me see if I can throw out a what if situation using some East Dallas logic maybe.

If we were to extend the amnesty period for those 15 -- let's say -- just assume it's 15 deals, to three or four days past our December Board meeting so that you can have time to run the traps you need to run, and they know as of the last motion the decision this Board made that they've got the credits, and they've got everything but time.

MR. HAMBY: Correct.

MR. CONINE: Then you could figure out and get back to us at the next Board meeting and let us know how to accomplish that task, if we can accomplish that task, and yet that would leave them time to bail out without getting penalized.

MR. HAMBY: And we could also probably get some comments from those 15 people. Again, it's sort of the size of the issue is because we have -- we're talking about a great deal of money that, you know, is larger than a lot of state's entire rounds that they get, the entire funding stream that they get. So it's a question of how big a deal is this.

MR. CONINE: Tom, where is the -- what are your comments?

MR. GOURIS: The only rub would be for those that are on the waiting list, if we wait a week after the December meeting to determine if we get some more return credits to go to the next deal on the waiting list. That doesn't provide them much time, or us much time, to get that accomplished.

And if the waiting -- if one of the decisions that could be made here is that any funds that are returned at that point are just carried forward to 2009, that would -- that might be what happens anyway.

MR. CONINE: Well, let me say this, give me your opinion on -- let's just assume that we can talk Kevin into it today, what would be your opinion on whether to grant them current '08 credits, or '09 forwards? Because if you grant them '09 forwards, you can then go ahead with the waiting list on the '08 with left over credits. Could you not?

MR. GOURIS: You could. And I think the thing that we heard though, it's not just time that they need. It's not just time and the 10 percent that they need. Some of those are the deals that are the most in despair, and they need to be re-evaluated. And some will come back, and all they get is 10 percent, and some will back and say, Well, I want to keep my 10 percent but now I need to amend my transaction as well and reduce the number of units just to make my deal work.

So what I heard several folks say is 10 percent is nice, but what we really want is to carry forward and to relook at them, you know, and not for --

MR. CONINE: But I don't think we can reallocate and re-underwrite every deal out there. We just can't do it. As I was saying, we can't do it on the fly. It's very difficult to do. At least it would be this Board's opinion.

MR. GOURIS: If there was a forward for '09 though, and they knew that they had an amount and we valued what that amount was, we could bring that in in the early part of the year potentially. But that runs into the issues that Kevin was saying about now we've got a bigger dollar amount and maybe a different deal that hasn't gotten the notice that the application process provides.

MR. CONINE: Let me ask you this question. How many more -- how many deals off the waiting list can we accommodate if we end up with $2 million -- we got two -- say we got $2 million sitting there.

MR. GOURIS: Maybe two --

MR. CONINE: Three or four?

MR. GOURIS: Maybe two, maybe three.

MR. CONINE: Yes. Okay. So --

MR. GOURIS: I would bet it's two. I bet it's two.

MR. CONINE: Yes. With the low price in credits, it's probably two. So did you say that '09 forwards would be the way to go so that we could accommodate the waiting list, or did you say, no, '08's the better way to go? Or how do we do '08? We don't have enough credits to do '08.

MR. HAMBY: For clarification, it's whenever the 15 deals came back in --

MR. CONINE: Yes.

MR. HAMBY: -- those credits would go forward to '09, so it's a wash on the credits, if you're going to do a forward commitment on the 15 deals, and that's how we actually end up doing it, and we find it's okay and everything works. So the deals that come back in, we can easily carry forward if you're going to give them a forward commitment in '09 --

MR. CONINE: Well, he brought up the point about waiting till December would penalize the waiting list. And what we're talking about here then doesn't penalize the waiting list.

MR. HAMBY: I don't think it would because you're talking really about revenue -- well, except for the additional increases, whatever they're asking for additionally would impact the list. But you're really talking about a wash in those because the funds would come back and be used in '09 for the same exact deals.

The only question is procedure at this point, so I don't think that's necessarily the impact immediately. The question about how we spend the additional funds now obviously impacts the waiting list.

MR. GOURIS: If the answer comes out in December that we can't do this, then there'll be -- there could be more credits that are available --

MR. CONINE: Right.

MR. GOURIS: -- because some of these will return.

MR. CONINE: Right.

MR. GOURIS: And if that amnesty then goes beyond the -- you know, goes to the 20th of December --

MR. CONINE: Right.

MR. GOURIS: -- we'll have, you know, five -- six days --

MR. CONINE: A bucket load of credits.

MR. GOURIS: -- bucket loads of credits in six days to get them all issued, or carried forward to next year.

MR. CONINE: Right.

MR. GOURIS: But everyone who's on the waiting list that might be eligible is going to want to try to figure out how to get it, then we have to go down the process of each one at a time --

MR. CONINE: You'll be working Christmas Day.

MR. GOURIS: Which is fine, but we'll be working down the list and --

MS. RAY: Speak for yourself.

MR. GOURIS: -- we won't be able to get through them all.

MR. CONINE: Right.

MR. GOURIS: I mean there'll be some people that won't get us the stuff in time, and then they'll be holding up that reservation, and --

MR. CONINE: This is just an unusual year.

MR. GOURIS: It is an usual thing.

MR. CONINE: That's the way it is.

MR. GOURIS: We will be there to do -- you know, get it all out.

MR. CONINE: Okay. So what I think I need, or what I'd like to see, is a motion that would take the 15 deals that are '07 unclosed, and extend the amnesty period --

MR. GOURIS: That didn't already get an extension.

MR. CONINE: -- that didn't already get an extension via Ike, or any other natural disaster out there, to December what, what's a good date? The 20th, 21st? I mean I don't want to get too close to Christmas. What day of the week is --

MR. HAMBY: Unless we move up the meeting, I believe it's currently December 18.

MR. CONINE: So the 18th's on a Thursday. Right?

MR. HAMBY: Right. So you could look at Monday before Christmas, Christmas Eve eve.

MR. FLORES: That's the 22nd, the Monday. Wow. These guys don't have anything to do anyway, so I suppose they can work over the weekend.

MS. MEYER: Just to let you know --

MR. FLORES: Wow, that's a short fuse.

MS. MEYER: -- there's only five business days between the December meeting and the end of the end of the year. Just so you know. There's only five business days, and that's the general public and for the state. So if you can just kind of --

MR. HAMBY: But though how you get to the 22nd, because the 22nd --

MR. CONINE: So the alternative -- let me get off of that whole track for a minute -- the alternative would be to pass it conditionally based on some quicker, before December 18, evidence that you can get that we can do this.

MR. HAMBY: Well, yes, I guess I'm confused how the waiting list really applies to these deals, because the question -- I can understand the amnesty question --

MR. CONINE: It's on the amnesty question.

MR. HAMBY: The amnesty question, I mean you could put into January, it wouldn't make any difference because that's not a -- I mean there's no technical date that has to be -- it's however long we want to do it. If we could do it --

MR. CONINE: It's not the only question, because if all 15 of them turn their '08 credits back in, they're going to scramble the rest of the year to get them out. And I want them to have as much time as possible to scramble to get them out.

MR. HAMBY: But if all the '07s turn their deals back in, it could easily be rolled forward into the 2009 credits.

MR. GOURIS: But that puts those that could have gotten an waiting list deal at harm. You could leave the amnesty go till January and just let them all return in January, but the waiting list goes away at the end of the year, and anybody that might have been on there that would have been able to move forward is harmed.

MR. FLORES: Which is what you're trying to prevent.

MR. HAMBY: The other side of that, I mean if you look at column 2009 on our blue sheet, we're talking about potentially $82 million in credits next year. You could forward all day if you wanted to and not make a dent. So I mean if that's the driving factor, rather than crush deals in, because it's all going to go to the same pool anyway, if somebody corrects or changes, it'll go forward to the 2009 package anyway.

So if you want to fund the entire waiting list, you can fund the entire waiting list out of the 2009 round, and the 2007 deals wouldn't have an issue.

FEMALE VOICE: Sounds easy.

MR. GOURIS: Except for those that go over the $2 million cap.

MR. CONINE: Why don't we just extend the amnesty date, and I think this thing will flesh itself out between now and the Board meeting, because right now they're facing a November 20 deadline.

MR. HAMBY: Correct. The 2007 deals, and the only reason I'm concerned is because it's such a large amount that we're moving that -- and there are people, as you well know, who don't want to see affordable housing in their districts, and some of those people put legislation in that require the public notification. And I certainly don't want to cross-ways with members of the legislature who expected public notification on deals. If the AG's office doesn't believe that's the case, then I'm comfortable with it too, but --

MR. CONINE: Well, we've already awarded the allocations.

MR. HAMBY: They wanted 2007, there's -- it's a new award cycle. You're going to give them 2009 awards.

MR. CONINE: Yes, that -- okay. Let's get a motion to extend the amnesty period and I'll be happy, I think.

MR. FLORES: What date?

MS. RAY: What date? Give me a date.

MR. CONINE: Give me January 1. That's fine.

MR. FLORES: So moved.

MS. RAY: Second.

MR. CONINE: Motion to extend the amnesty period from November 1 to January 1 for those 15 applications, or all of them?

MS. MEYER: No, make it the second.

MR. HAMBY: That is a holiday.

MR. CONINE: January 2. All right. Look at --

MS. RAY: January 2.

MR. CONINE: -- January 2. For everybody. That way it's just for everybody.

(General laughter.)

MS. RAY: We accept the amendment to January 2.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. I think I'm done with this issue, unless someone thinks of something else I missed. Everybody happy?

(No response.)

MR. CONINE: Okay. Let's go to Item 2(d), I believe. This is the forward commitments. Let's doe the public comment first.

Don Jones?

MR. GERBER: Don, you can do it from there.

MR. JONES: That works for me.

Mr. Chairman, thank you. For the record, my name is Don Jones. I work for State Representative Jose Menendez from San Antonio. And at Representative Menendez's request, I'd like to read a copy -- or read a letter onto the record. I've got copies here for each of the Board members.

If you wouldn't mind passing those down.

And, again, I'd like to apologize on behalf of

Representative Menendez. I just got a message from him, and he has been able to take his wife home from the hospital --

MR. CONINE: Good.

MR. JONES: -- just a little while ago. But --

MR. CONINE: Tell him we're thinking about he and his wife Lois.

MR. JONES: The letter's dated today, November 13, addressed to Chairman Conine and, of course, the rest of the Board.

"There is no question that the economic situation affecting the country is going to exacerbate the already growing need for affordable housing. It is essential that Texas act decisively and quickly to optimize existing opportunities. CRA investors" -- that's the Community Reinvestment Act investors -- "consider Texas one of the optimal markets in the country right now, and the state must take advantage of this position to not only expedite efforts to meet the expanding demand, but to protect against the possibility of even worse economic conditions eight to ten months from now.

"TDHCA's mission of optimizing opportunities to provide affordable housing to low income working families of Texas is precisely why I disagree with the staff recommendation against making any forward commitments form the 2009 tax credit allocation to qualified applications from the 2008 round.

"In fact, I strongly urge the Board to award a significant number of forward commitments to already qualified applications with specific performance conditions attached, and that doing so not only promulgates this goal, but does so at no risk to the tax credit programs.

"I recommend that the Board direct staff to immediately develop an emergency plan that allocates a forward commitment to all requests from qualified 2008 applications with the non-waiverable stipulation that financial equity be secured within 90 days, and that failure to meet this condition results in a non-negotiable revocation of the credits for reallocation during the normal 2009 round.

"Clearly every successfully completed development under such a policy furthers the TDHCA mission, and does so without jeopardizing any of the tax credits. I recognize this recommendation may require unusual, and even extreme measures, but it is clear that Texas must examine every opportunity to address the growing economic crisis with innovation and decisive action.

"I am committed to working with the TDHCA in the upcoming legislative session to meet these and other growing needs, but believe this circumstance requires the Board exercise vested authority and act now to address this very significant problem. Respectfully yours, Jose Menendez, State Representative, District 124."

MR. CONINE: Counselor.

MR. HAMBY: I'm sorry, Can I make a clarification. Are we talking about 2© or 2(d)?

MR. CONINE: We're back on (d) now.

MR. HAMBY: Okay. 2© has not yet been decided, and that's the Ike credits where you're talking about setting out the current 2008 Ike credits that may have an impact on your 2(d). So however you want to do that, but that's the 14 million that we can replace this year and carry forward.

MR. CONINE: Okay. I gotcha.

MR. JONES: Mr. Chairman, I think that's the end of the letter. You can go on to what's --

MR. CONINE: Okay.

MR. JONES: I can try any questions the Board may have.

MR. CONINE: Have you had a chance to look at his letter? You need to take a look at it and read it, and while you're doing that, I'll go back to Item 2© and get staff to make a quick presentation on flipping those 14 million -- what is it -- yes, $14 million.

MS. MEYER: What your option is, is how do you want to use it? Do you want to use the 14 million this year and go down the waiting list? Do you want to carry the 14 million to next year and put it back in 5 and 6 by -- well, we'll be swapping it out, so we would move it over to next year and put it back in 5 and 6, or put in back into next year and it goes to the entire regional allocation program.

MR. CONINE: If we look at the blue -- back to the blue sheet, in the first column where you got additional Ike credits and HR 1424, all right, you know, you got 14 million 722 and whatever, already awarded 12, others 5 and 6, others that can be funded and the additional allocations.

MS. MEYER: Correct.

MR. CONINE: Those were the -- I'm sure were the assumptions that the Board had as we were walking through our last motion. So in order to clarify and make clear to the staff on Item 2(c), can I get a motion that would indicate that we use the Ike credits thusly?

MR. FLORES: So move.

MR. CONINE: Is that Mr. Flores?

MR. FLORES: Yes.

MR. CONINE: Made a motion.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Is there any confusion or discussion?

MS. MEYER: You're swapping them out --

MR. CONINE: Swapping them out --

MS. MEYER: Okay. Are you moving them to 2009? Or are you leaving them in 2008 to be used for the waiting list?

MS. RAY: That assumption.

MR. FLORES: 2009.

MR. CONINE: I think we moved them to 2009.

MR. GOURIS: And targeting to the regions.

MR. CONINE: And targeting 5 and 6 initially within redistributing later.

MS. MEYER: Correct.

MR. CONINE: That's the motion.

MS. RAY: That was already in the motion that we made.

MS. MEYER: That's correct.

MR. CONINE: Is that -- everybody on it?

MS. MEYER: That's correct.

MR. CONINE: Any other discussion?

MS. RAY: None.

MR. CONINE: All those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Now we're back to 2(d). And the next public commenter I have is Lorraine Robles.

MS. ROBLES: Good afternoon. Thank you, Board, for allowing me to come before you today.

MR. CONINE: How are you doing?

MS. ROBLES: I'm Lorraine Robles. I'm with the San Antonio Housing Authority, and I am here representing the Housing Authority, as well as the Board, and asking you to please consider a forward commitment of tax credits for Sutton Homes, 08190.

As you know, in the past I believe we've been in several of the Board meetings and explained to you the desperate need of this project. It was built in the 1950s, the early 1950s, and is in desperate need of revitalization. It is beyond rehabilitation. We've done studies to see if we can go back and try to rehab, and if it would be feasible, but it is economically not feasible to do this.

The only solution, in order for us to provide decent, safe and sanitary homes for our residents, is to demolish the project and start again.

The project itself has failing infrastructure. We have report after report weekly from residents of leaks and damage and from foundations to roofs, leaking sewers, what have you. We even have recommendations from utility companies that say, you know, you really need to just redo everything, it's -- the repairs are just band-aids.

We've got units -- there's a total of 242 units, however, not all of them are useable. We're down to about 226. We've had to shut some down because they're just uninhabitable. They've got leaks, they've got foundation problems, they've got exterior wall damage where you can actually see through the walls to the outside.

The project is quickly deteriorating, and as you know, as it begins to deteriorate, we're closing up units, we're boarding them up and shutting down whole buildings, and that just creates a more dangerous environment for our residents that are still on the property. It's also led to an increase in crime as well, you know, people setting fires and graffiti and what not.

The Board, the San Antonio Housing Authority and its Board has committed $4.5 million to this project. We've been able to gather this money and earmark it specifically for Sutton Homes. It is a top priority for San Antonio Housing Authority.

What you may not know is that the time has come. We've tried since 2005 to get this done. We've applied for three different HOPE VI grant applications with no success. This is our second round in 9 percent tax credits for this project.

Unfortunately, the time has come for us to do this. Our HF funds that we've earmarked for this project have to be spent by 2009. If not, we lose them. Sutton Home's not going to lose them. The project will lose them. We'll be forced to use those funds on another project. However, if Sutton Home project loses that, then we don't know where the development, or revitalization will go from there. So we urge you to please consider a forward commitment.

If you remember, back in September, we had a group of about 35 residents. We could have probably filled half the room if we're able to bring everybody who wanted to come. But they have a vested interest in their community. We have Ms. Evelyn King, who's been living on the property since 1956 and can attest to the wonderful hey days of Sutton, but they have now been outlived, and something needs to be done. She is a representative of all the residents there at Sutton Homes.

And they have a true interest in the project. I know that once I get back to San Antonio this afternoon, I'll be receiving phone calls. Everyone's just waiting to hear what's going to happen to their homes. Are we going to get the funding that's necessary? We've been with them since 2005, keeping them abreast of everything that's going on. And they're anxious to hear some word, something positive, that it's finally going to happen for them.

And so with that, on behalf of the San Antonio Housing Authority and the residents of Sutton Homes, we respectfully request that you grant the Sutton Homes project a forward commitment, which will provide the residents of Sutton Homes a safe and decent home.

Are there any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MS. ROBLES: Thank you.

MR. CONINE: Stay here.

Evelyn King?

MS. KING: I would like to say good afternoon. I had on my little paper, Good morning, so I had to change it to good afternoon. And I had to write down a few notes because I'm a senior and I'm entitled to senior moments.

My name is Evelyn L. King, Mrs. Evelyn L. King. I've been a long time resident of Sutton Homes, and I know you're hearing this over about the apartments, but I have been there maybe about 50 years so I've seen the changes and I know what's going on, and I know this is very much needed because the apartments are, as I said, problems, they're mandated. The plumbing is terrible and they don't want to dig up so they need to put new plumbing and they need to put new buildings.

And I want to say that I'm just here to let you see that I am supporting the forward commitment, and I took time off from my senior center today to come up here, so I want you to know that we would greatly appreciate whatever you do, if you pass it and give it to us, we would really appreciate that.

So I'll just say thank you all in advance for what you do, have a great day, and God bless you.

MR. CONINE: Thank you, appreciate that.

Board members, I'm going to stop public testimony for just a second and suggest a wild and crazy motion for your consideration. Given the fact that I'm looking at 2009 with $82 million plus in credits sitting at us, I would suggest we move that the remaining projects on the waiting list for 2008 be granted 2009 forward commitments, and following upon Chairman Jose Menendez's recommendations, stipulate that they be closed and going within -- he said 90 days, I think the right period of time is probably 180 days. Because we've got more credits than we know what to do with, and if these projects can get home, they can get home.

MS. RAY: Mr. Chairman, do you need a Board motion to that effect?

MR. CONINE: Let's get the motion on the floor and then we can discuss.

MS. RAY: Mr. Chairman, I move that all of the 2008 items on the waiting list be granted forward commitments for 2008 with the provision that they can be underwritten and they can be moving --

MR. CONINE: Subject to underwriting.

MS. RAY: Subject to underwriting, and can be moved forward in 180 days.

MR. CONINE: And just to make the point clear, these will be underwritten with the full 9 percent, 10 percent cost increase, the credit pricing which they have to get back to us because in some cases they haven't, very similar to the '08s.

MS. RAY: That's my motion, Mr. Chairman.

MR. CONINE: Do we need to technically correct the motion anywhere?

DR. MUÑOZ:

MR. GOURIS: Perhaps you may want to give staff some discretion to be able to get information because we would be getting it in before the 180 days so that we can do that underwriting, but that they would have final documents saying that they can move forward in 180 days.

MS. RAY: That's what we're asking, that's my motion.

MR. CONINE: That's right. Is there a second to that motion?

MS. BINGHAM: Second.

MR. CONINE: There's a second.

MR. FLORES: Sir, may I ask staff to respond to that? I'm looking at the recommendation of the staff is exactly opposite from the motion, so I want to know why they say not to recommend it, and I see some things here that I understand fully: does not score sufficiently well, something about they're not held to the same standards as other applicants -- I don't understand that one -- and some other things. So whoever wrote this recommendation, will you please explain that to me?

MR. GOURIS: Generally and briefly, staff has had a long and proud history of not recommending forward commitments in order to not undermine future years' allocations, and those were all some of the reasons why we do that as a practice. But it's perfectly within the discretion of the

Board to do that and this is a very unusual year with a very unusual year coming forward.

MR. GERBER: And our assumption is that these are going to be tough deals, in many respects, to pull together and that's why the Chair is going beyond the additional 90 days that Representative Menendez chose to see what can be produced, with the ultimate goal being getting housing on the ground.

MR. FLORES: I understand you've got a little pressure now from a legislator and the chairman of the Board, but I still want to know why these are not good deals. And the other thing that's not answered here is what is the total amount of all of these deals. $23 million?

MR. GERBER: It's not that these weren't good deals, it's just that at the time of the 2008 awards, we were operating under a very different set of circumstances, and now that twelve deals have come back and the markets have fully been shaken, we find ourselves in a circumstance.

MR. GOURIS: It's very clear that there's going to be a lot of credit next year, and to keep deals that might have a chance of moving forward, moving forward is probably well within the Board's discretion to pursue. I don't know what the allocation list will look like next year, but I think we're going to not see as many as we saw this year and we have more credits to allocate, too.

MR. FLORES: And am I to assume that you think your take on this thing, Tom, is that the weak ones will be culled out by the financing agencies?

MR. GOURIS: Yes, that's correct.

MR. HAMBY: And some will have let their property go and other things, so they won't be able to do it. Mr. Conine, just to be clear, the $82 million that we're talking about, $29 million of that is in Regions 5 and 6, so you're taking the $48 million, that's why you're taking the $23 million out because you've already funded all the ones out of Regions 5 and 6. So part of that motion would have to be -- and I don't know if it would violate anywhere because obviously we weren't expecting this so we haven't reviewed it -- it would also be subject to the regional allocation formula because you can't exceed their allotment in that region. If they have more applications, then they will get allotments next year.

MR. GOURIS: We'll back it out of each region and we'll report back to you what that looks like, and it may be that in some regions next year there's no regional allocation amount for that region, and any new entity that would want to apply in that region might have to wait on a waiting list to see if there's any statewide funds left at the end of the cycle.

MR. HAMBY: I think the other question that I've been asked a couple of times since the motion was made: What is at 180 days required, syndication letters, land closed, what does closed mean? That will take us to like June or the end of May, so it will be right before the next funding cycle goes.

MR. CONINE: In theory, these are '08 deals that could be closed by then, could they not?

MR. GOURIS: That's what I read.

MR. CONINE: I think they need to be closed by 180 days.

MR. HAMBY: Closed completely, done, ready to go, start construction.

MR. CONINE: That's right.

MR. FLORES: Is this part of the motion?

MS. RAY: Just clarification of the motion.

MR. CONINE: Clarification of the motion.

MR. FLORES: Is that the same as if they don't do it, they drop dead?

MS. RAY: Yes.

MR. CONINE: Are you finished with discussion of the motion?

MS. RAY: Yes.

MR. FLORES: Yes.

MR. CONINE: Before we vote, I want to give the public a chance to comment now that they've heard that motion, if anybody wants to comment, or they don't have to comment. I've got Ryan Wilson, George Littlejohn.

MR. WILSON: My name is Ryan Wilson and a lot of stuff just happened in the past two minutes, so I just got a forward commitment on a deal that we didn't know was going to need to be closed in 180 days, so is that what we're hearing, Mr. Chairman, is that these deals need to be done and completed in 180 days?

MR. FLORES: It's not passed yet.

MR. CONINE: It hasn't passed yet but that's the motion on the table.

MR. WILSON: Okay, that's all the comment I have.

MR. CONINE: Can you pull up your britches and get it done?

MR. WILSON: We'll do what we can.

MR. CONINE: Okay. George Littlejohn. Mike Sugrue, come on up.

MR. SUGRUE: Good afternoon -- I'm glad it's not evening yet but it looks like we're going there. Mr. Chair, Madame Chairperson, Mr. Gerber, and all board members. I'm here in two capacities: one is in my capacity as president of TAP, and I believe everyone received this letter so I won't reiterate since we beat this up a number of times, and based on the motion that's just been made, I was going to come up here and propose that all '07s that requested get an '08 award and all '08s that requested get an '09 award. Now you've taken care of the '08s that are on the waiting list to get an '09 forward. What about the ones that just returned to fall into the amnesty period who, if they had another 180 days, would like to still play?

MR. CONINE: You're talking about the '07 unclosed?

MR. SUGRUE: I'm talking about '08 that may have been returned because it was a rural deal and there's no rural buyers until after the first of the year, amnesty ends, at best, November 20.

MR. CONINE: Amnesty ends now January 2.

MR. SUGRUE: But we didn't know that until today.

MR. CONINE: Right.

MR. SUGRUE: So some of us have turned deals back and we said if there's another 180 days, we want to play, let us back in the pool.

MR. CONINE: Come see us next month.

MR. SUGRUE: We'll make that request.

MR. CONINE: Come see us next month; we'll have forward commitments on the agenda next month.

MR. SUGRUE: We'll make that request, and that's basically what this is to allow it for next month's board meeting.

MR. CONINE: Santa Claus comes early.

(General laughter.)

MR. HAMBY: For clarification, we won't have forward commitments on next month's, we'll have reinstatement of deals that were given up, and that would probably also include Casa Alton.

MR. SUGRUE: Well, thank you.

MR. CONINE: Littlejohn, are you coming?

MS. RAY: And that also includes El Paso; I think we already directed the staff to put the El Paso deal back on.

MR. LITTLEJOHN: Mr. Chairman, board, Mr. Gerber, I'm coming back from a comment I heard from Dr. Muñoz earlier talking about innovative and creative ways to help with the projects that need more than the 10 percent construction cost increase, and we all appreciate the 10 percent. What I'm proposing and what I'd like to offer up to the Board as one solution is if any deal that needs more than 10 percent could come back to Tom, show the support, be re-underwritten, they could easily be funded out of the '09 commitment and receive their credits and be able to go forward and get the help they need. That is one way we could do this; we could do this out of '09 credits.

It would not help the one deal in El Paso which is '06 and has placed in service, they would have to get '08 credits and be re-underwritten to do that, but for any of the deals that are '07 and '08, if you had a more than 10 percent cost increase and would like to be re-underwritten, Tom could easily do that in early '09 and use '09 credits to have this done. Thank you.

MR. CONINE: Thank you. Mr. Dan Kearse, going or passing? Don't hear him. Richard Washington?

MR. WASHINGTON: I pass.

MR. CONINE: You pass, thank you. Mark Mayfield?

(Inaudible response from audience.)

MR. CONINE: Deborah Guerrero?

MS. GUERRERO: Thank you.

MR. CONINE: You're welcome. Paul Holden, passing. Barry Palmer -- wait a minute, you're in 2(e), you can't go yet. That's all the witness affirmation forms I have on 2(d). Ms. Ray.

MS. RAY: Mr. Chairman, this doesn't have anything to do with this.

MR. CONINE: We've got to vote then.

MS. RAY: Okay.

MR. CONINE: Any other discussion on the motion?

(No response.)

MR. CONINE: The cap.

MR. HAMBY: The cap is statutory, it cannot be waived. You can do it by year if you want to do it by year, but that would be a direction to the staff. $2 million is the cap, whatever year they're in.

MR. FLORES: Kevin, repeat that to the audience, I think they missed that.

MR. HAMBY: The $2 million cap is for each year's allocation, so if they get an '09 award, they're out of the '09 award so they wouldn't be able to get anything else, it's an '08, they would get an '08. That's how we've been doing it now.

MR. FLORES: It's legislated.

MR. HAMBY: The legislature will not have it changed before you have to have this deal closed because it would have to be an emergency legislation that would pass as of the date of the passage and be signed by the governor prior to your 180 days.

MR. CONINE: What about the '08 deals that got more '08 credits that would put them over the cap?

MR. HAMBY: They can't exceed the cap, they can't legally exceed the $2 million cap.

MR. CONINE: Let us vote on the current motion. We'll fix that. The current motion is the rest of the waiting list '09 forwards. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

The other issue that Bobby I think was referring to was in our generosity of giving '08 deals more '08 credits, there could be the issue of the $2 million statutory cap, and I think we would need a motion from this Board to allow staff the discretion that if that case happens, then any excess over the $2 million on those combinations of transactions would come out of the '09 cap ceiling. Would that take care of any problems that would exist on the '08 ceiling?

MR. HAMBY: If you're making it staff discretion, it won't happen.

MR. CONINE: It won't happen? Okay, let me rephrase this. Can I get a motion to ask staff to calculate those for the next Board meeting and bring them back to the Board for us to make that decision?

MR. HAMBY: We would very much prefer that.

MR. FLORES: So moved.

MR. CONINE: Motion to do that. Is there a second?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Sonny made the motion, Ms. Ray seconded. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. HAMBY: I just need one more point of clarification before we get off this subject. The people that you're saying that could come back next month and be reinstated, if we do that, it eats further into the cap because that's the $9 million that you spent today.

MR. CONINE: I think I understand that. Like I said, Santa Claus comes early.

MS. RAY: Mr. Conine, Mr. Chairman.

MR. CONINE: Yes, ma'am, Ms. Ray.

MS. RAY: Just as a point of clarification on our previous discussion, can I ask you to ask the staff to put the El Paso deal on the agenda for completion?

MR. CONINE: Yes. I heard them say yes, that's what I heard them say.

MS. RAY: Just wanted to make sure it was on there, just checking.

MR. CONINE: We're going to move on to agenda Item 2(e) now. Mr. Gerber. We're really speeding through this agenda, aren't we?

(General laughter.)

MR. GERBER: Robbye.

MS. MEYER: Item 2(e), Chairman, Board, is Mirabella Apartments, it's a tax-exempt bond application and it also has 4 percent credits. It is a local issue with San Antonio Housing Finance Corp as the issuer, it's a Priority 2 transaction. It's proposing new construction of 172 units and it's targeting elderly population.

Now, the Department has received letters of support from Senator Leticia Van de Putte and also State Representative Castro, State Representative Martinez Fischer, and County Commissioner Elizondo, City Council Justin Rodriguez, and the Department has also received letters of support from Woodlawn Hills Neighborhood Association.

This item actually has HOME funds attached to it as well as 4 percent credits, so I wanted to make sure that you understand that. The applicant is requesting $695,738 in tax credits and HOME Activity Fund award of $500,000, and a Housing Trust Fund award of $384,000.

An underwriting report completed by the Real Estate Analysis Division reflects that the proposed development cannot be projected to service the HOME funds and Housing Trust funds to meet the minimum debt coverage ratio, feasibility criterion of 1.15. The underwriting report has also indicated that the property cannot be projected to produce sufficient cash flow to repay the additional $1.2- in deferred developer fee and the $1.4 million in combined City of San Antonio and Bexar County HOME funds when fully amortized.

As such, the Real Estate Analysis Division has determined that the application does not meet the Department's feasibility criterion. Additionally, the HTF NOFA and HTF annual plan indicate that forgivable debt may be considered only if additional 30 percent units are elected. Eighteen additional 30 percent units would be required for the subject application in order to be eligible for full forgiveness of the $384,000 in Housing Trust Fund funding. The HOME NOFA for persons with disabilities does not contemplate allowing loan forgiveness or cash flow loans.

The applicant has proposed an alternative structure for the Department's funds that would allow repayment to begin three years after stabilization is achieved. Generally this would be put first possible payment at least five years from the award. While this structure has been approved by the Board in limited cases and on a case-by-case basis in the past, this structure is not consistent with the Department's standards.

Staff recommends the Board deny the issuance of the tax credits and deny the issuance of the HOME award and deny the issuance of the Housing Trust Fund.

MR. CONINE: I have three witness affirmation forms for this particular agenda item: Ken Maksoudian, Barry Palmer, and Giovanne Colson-Basurto. Who is going first, second and third? Come right on up and introduce yourself.

MS. COLSON-BASURTO: Hi. My name is Giovanne Colson-Basurto, and I'm here on behalf of Representative Joaquin Castro. Chairman, Vice Chair and Board members, thank you for the opportunity to speak to you today in support of the TDHCA HOME and Housing Trust Fund allocation for the Mirabella Apartments located in Representative Joaquin Castro's district.

This will be the first senior community built in over two years in the City of San Antonio, and as our constituency grows older, the need for quality affordable housing increases. This development will help fill a real need. This will also be the first multifamily development in the city that will include solar heating and water, thereby helping to reduce the utility costs for seniors on limited incomes.

Representative Castro has been personally involved in ensuring that the community was involved in all aspects of the development of this proposal, and the effort was successful, as demonstrated through the overwhelming support of the community, through letters of support and petitions from the neighborhood and elected officials at all levels -- which I have right here.

In addition to that support, the city and the county and even the local utilities, city public service are supporting and partnering with the project. They have all put in significant amounts of funding to help with the financing of the 172 senior apartments. Now we ask that TDHCA join in the effort to support the Mirabella apartments so that we will have the opportunity to address the wishes of the seniors in our neighborhood by providing quality affordable housing and resident services to meet their everyday needs.

Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Barry Palmer, Ken Maksoudian. Sorry if I butchered that up.

MR. MAKSOUDIAN: That was pretty good, actually. Mr. Chairman, Board. My name is Ken Maksoudian; I represent the NRP Group.

As you're aware, doing a 172-unit senior bond deal is a challenge these days, and what we have been able to do is to structure this project using creative alternatives. We have multiple layering of soft funds or other loans coming in from the city, the county, as well as these funds in question today. Part of what we're trying to do in structuring this is to make it feasible to hit our debt service ratios. We believe that we have a project that can cash flow strongly and pay back these loans, and if we move in such a way that we were to defer the payment of these funds, we believe that we can meet that mark.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Mr. Palmer, you made it back.

MR. PALMER: As has been previously mentioned, this is a 4 percent bond deal in San Antonio, a seniors deal. We are not seeing many 4 percent deals that can get closed these days. In years past, maybe half of the deals that were done were 4 percent deals; this year there will be fewer than ten that will close, next year there will be fewer yet. Here we have a unique opportunity where because we've got such a strong team, NRP is the developer, one of the largest developers in the country to get teamed up with the San Antonio Housing Authority, and they've been able to get commitments from the city and the county for a million four of soft funds. So with that, with the TDHCA HOME and Housing Trust funds, this deal is financially viable.

The only thing we need, we're just asking for one little bit of flexibility here, and that is to have the HOME and Housing Trust funds from the TDHCA have a deferral of payment for five years and then start paying on an amortizing basis after that. The city and the county have agreed to let the state be paid back first. They're agreeing that their funds can get paid back out of cash flow if and when it's available after the state gets paid back. So we've used this structure before and it's been successful. Our models show that if you got paid back, if you went on just your cash flow basis and you got the cash flow as opposed to amortizing it, then we could pay you back in twelve years.

But if you want to make it a must-pay obligation, we just need a deferral for five years, because otherwise, it impacts the sizing of our senior debt. If this a must-pay obligation starting from day one, it reduces the amount of first lien financing that we can get and it really negates the value of putting in the soft money if it's included in the debt service coverage for the first lien debt.

So with this one little change -- which has been done in the past; we're not asking for much here, we're not asking for more credits or extensions or amnesty -- all we're asking for is a little flexibility on the payment terms, and if you do that, you'll get a senior development in San Antonio that otherwise will not be developed. I am fairly confident if this project does not go forward there won't be any senior housing built in San Antonio next year. This is an opportunity to get one done with 4 percent credits, you don't have to use any of your 9 percent credits, just a little flexibility on the payment terms and we can develop this quality housing for the seniors of San Antonio in the coming year.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I'd like to ask staff to come back forward on their recommendation to deny this level of flexibility -- as I think everybody that has ever heard me speak, I'm very much in favor and have a very soft spot in my heart for senior housing -- when we can allow the level of creativity that we need, particularly if it's not going to negatively impact other such developments, to tell me why this would not make sense for the Department, other than it just being something that the Board needs to look at.

MR. GOURIS: In many cases, transactions that we look at don't have our own HOME funds and Housing Trust Fund dollars. Those are real dollars to the State of Texas. The tax credit, if it works, it goes forward, if it doesn't, it comes back to us. If the HOME funds don't work in this transaction, they won't come back to us, and our projections are that they won't come back to us here. So I can't, in good conscience and following our rules, say we should recommend doing this transaction because it's not repayable. Some deals are just too tough to do.

Now, they make a case for allowing some period of time to pass before they start making a regular payment to us. It is possible that that could come to fruition and be successful; it's also possible -- not an exactly predictable thing -- that that doesn't come to fruition, and I can't predict that. And our rules that we have in place indicate to us that that's not the case here, that we can't predict it so we're not recommending it.

You all, of course, can grant the funds or you can provide it in deferred forgivable or cash flow or whatever presentation that you would prefer to do a transaction that's very difficult to do. But remember that when we've done this before, it was a small dollar amount and we were the first ones in line. In this transaction they're asking for two pots of our funds, our direct funds, plus they're getting two pots of similar funds that are even larger than that from the city and the county, and none of them are repayable.

MS. RAY: And I know how hard it is to get money out of the city and the county in San Antonio.

Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move that the Board approve this transaction.

MR. CONINE: I'm hearing a motion to approve Item 2(e). Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: There's a second. Any further discussion?

MS. BINGHAM: Can somebody just remind us who is first lien, who comes first, second, third, fourth?

MR. PALMER: There is a first lien holder, Capital One, that would be providing the bulk of the money. The soft funds that are being provided by the city, the county and the state, the state's money would be in a superior position to the city and county money, so you would get paid from the first cash flow from the project before the city and county.

DR. MUÑOZ: Barry, you just said the bulk of the money is coming from who?

MR. PALMER: The first lien holder, $15 million of hard debt from the first lien holder.

DR. MUÑOZ: Which is?

MR. PALMER: Capital One.

DR. MUÑOZ: Because I understood Tom to say that the bulk of the money was coming from state and local.

MS. RAY: No, soft money.

DR. MUÑOZ: Oh, soft money.

MR. PALMER: There's a million four of soft money from the city and the county.

MS. BINGHAM: No other questions.

MR. HAMBY: I'd actually like to follow up on that. You asked specifically about liens. We would be in a secondary lien position. It's not unusual for the state to be in a secondary lien position, we have less money in the transaction. It's whenever we have more money in the transaction that we care about the lien position.

MS. BINGHAM: Okay.

MR. CONINE: And I assume the motion takes advantage of the waiver he asked for in the absence of payments in the first five years. Is that what I heard?

MS. RAY: Yes.

MR. CONINE: Is there any further discussion on the motion?

(No response.)

MR. CONINE: Seeing none, all those for the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

MR. FLORES: No.

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, the next item is Item 3, it's Alta Cullen Apartments. This is a Variable Rate Demand Multifamily Mortgage Revenue Refunding Bond Series 2008 with the Department as the issuer. Staff is recommending that the Board approve the Variable Rate Demand Multifamily Mortgage Revenue Refunding Bond Series 2008 for Alta Cullen Apartments in the amount not to exceed $14 million.

Staff notes that it's a condition of the real estate analysis report that he applicant submits to the Department a copy of the final executed Freddie Mac commitment no later than November 12, 2008. Additionally, the approval is conditioned upon having received an executed commitment from Wells Fargo as the servicer with the amount and the terms of the loan clearly stated.

Anything else you guys want to add?

MR. CONINE: I have at least one public comment, two. Edward Boze, Zachary Marks will be next

MR. BOZE: Sir, if I might, could Mr. Marks go first?

MR. CONINE: Sure he can go first, you bet.

MR. MARKS: Good afternoon. I'm representing the developer and borrower, and we just would like to echo and reinforce the conclusion that the staff has come to, that this is simply a refunding that will benefit all parties involved. It will substantially reduce the cost of the debt and capital associated with the project and put it in a better operational feasibility. That's all I have.

MR. CONINE: Say your name.

MR. MARKS: Oh, sorry. Zach Marks.

MR. CONINE: Okay, thanks. Next Mr. Boze.

MR. BOZE: My name is Ed Boze, Boze Capital; we're financial advisors to Wood Partners. Just to reiterate it will actually lower the interest rate about a point and a half, it converts from construction to a perm, it saves the project over $2-1/2 million. We're asking nothing, obviously, of the Board except to approve the refinancing so we can close it in a couple of weeks before the Freddie Mac commitment expires. So thank you very much for our consideration, and glad to answer any questions if there are any.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Seeing none, I'll entertain a motion.

MR. FLORES: Move approval.

MR. CONINE: Motion to approve by Mr. Flores. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. Item 4.

MR. GERBER: Mr. Chairman, Item 4 are the rules. The first is Item 4(a) which is the request for final approval of the Real Estate Analysis Rules and Guidelines to be adopted and published in the Texas Register. For all these rules, you adopted a draft version of them at the September Board meeting. The Department held six public hearings across the state in September and October and received public comment through October 20, 2008. That public comment has been incorporated into these rules and we think reflects the State's and the public's interest, and we would ask the Board for final adoption of the order to publish the rules in the Texas Administrative Code.

MR. CONINE: Did Tom change his mind on one thing? I just wondered if they got you to change your mind on any one thing.

MR. GOURIS: On a daily basis, sir.

(General talking and laughter.)

MR. CONINE: Do I have a motion?

MR. FLORES: Move approval, Mr. Chair.

MR. CONINE: Moved approval by Mr. Flores. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: By Mr. Cardenas. Any further discussion? Wait a minute before we vote -- I don't have any comment. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. Item 4(b).

MR. GERBER: Mr. Chairman, Item 4(b) is, again, a request for approval of the Community Affairs Rules to be adopted and published in the Texas Register. As I just mentioned, hearings were held on all these rules and public comment was incorporated where appropriate.

Amy, anything in particular you want to highlight?

MS. OEHLER: Actually, I'd like to go over the comments that we received from the Texas Association of Community Action Agencies. We received additional comments yesterday and we met this morning with their executive director as well as Mr. Gerber and Mr. Hamby, and they have made 13 additional comments that don't include substantive changes, and we are agreeing to eleven of the 13 comments and when the executive director of TACAA stands up to give her public testimony, she's going to provide to you those comments. And what we're recommending is that we approve the proposed rules along with eleven of the 13 comments.

MR. CONINE: The witness affirmation list: A.R. Kampschafer, Beverly Logan, Stella Rodriguez.

MS. RODRIGUEZ: Good afternoon, Mr. Chairman, members of the Board, and Mr. Gerber.

First let me say that we commend the staff for the enormous task undertaken to consolidate policy issuances and various other instructional documents into the proposed Texas Administrative Code. As Amy reported, we did meet this morning and we agreed, we talked over the recommendations that I had prepared to present today. We agreed, on some we disagreed, we deferred on one, we conceded on another, and that's just equal partnership that I see that we have with the Department. And so we are so appreciative of the staff's work with us, and move forward with the recommendations. Thank you.

MR. CONINE: Thank you. Any other public testimony that I called out that's here?

MR. KAMPSCHAFER: Good afternoon, ladies and gentlemen. My name is Art Kampschafer. I'm a contract manager for Community Services, Incorporated in Corsicana, Texas; we operate a weatherization program in 15 rural counties surrounding Dallas County and Tarrant County. And I also would like to thank the staff for their work answering and responding to our comments concerning this. This is the first time I've had anything to do with this and this is a monster, and it was really interesting reading -- I read all this thing and it's interesting. Anyway, so is this hearing. It's the first time I've been to one of these.

MR. CONINE: I'm sorry.

(General laughter.)

MR. KAMPSCHAFER: Anyway, subsequent to my other comments, another issue has arisen and I'd like to bring it to your attention. Regarding 10 CAC Paragraph 5.3, Definitions, subparagraph (b)(32)(A) -- I have copies for the record, I didn't bring enough for everybody -- CSI urgently requests the addition of provision to increase the DOE and LIHEAP weatherization income eligibility limit to at or below 150 percent of the federal income guidelines whenever the federal DOE weatherization total program allocations equal or exceed $209,724,761 which is the key to a change in the allocation formula.

The Texas weatherization program has been and is now operating under 125 percent limit, even though the federal rules allow states to use 150 percent limit, because with the normal Texas allocation and with the usual number of applications, the available funding would not serve applicants and most local programs still have a waiting list for eligible but unserved applicants.

However, it is anticipated by some people that the FY 2009 federal DOE funding will exceed $477 million and Texas will receive an estimated $16- to $17 million increase, over a 300 percent increase because a different allocation formula is used when those levels are reached. Only a few, if any, sub-recipients will have sufficient eligible clients to spend this increased funding if the 125 percent limit is still in effect. Even with the 150 percent limit, it will be very difficult to hire and train additional staff and contractors to serve all the eligible clients and spend all the funds, especially in the rural areas.

Now, maybe El Paso, maybe Houston, maybe Dallas-Fort Worth, those kind of areas, San Antonio, will have enough eligible clients; we don't have them in the rural areas. And we know that what you don't use you usually lose by transfers to other states or other federal programs. If you make it possible to use the 150 percent limit, we can assure you that every eligible lower income client will be served. We will only serve the 126 to 150 percent eligible clients after all the lower income clients are served because we use income level as the first of several priority factors.

All Texas weatherization program providers and the new poor clients who will be served will appreciate your favorable consideration if you will just allow the staff to consider this depending upon the coming allocations, whatever we get when we get it for 2009, to consider this as a possible relief for those of us who don't anticipate having enough clients to use that money.

Thank you very much for your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Amy, do you want to respond to Mr. Kampschafer's request?

MS. OEHLER: Well, I'd like to highlight to the Board that at the moment, as he mentioned, we serve clients at or below 125 percent of the federal poverty guidelines and we serve 6 percent of the eligible population in Texas. And so it has never made sense to us to increase it to 150 because, of course, we would only be able to serve maybe 2 or 3 percent of the eligible population.

Mr. Kampschafer is saying that in the 15 counties that he serves that that is not applicable, the 6 percent, he's saying, of course, that might be the case in the larger urban areas, and so what I suggested to him is that we work with him and we look at the counties that he specifically serves and then possibly bring a recommendation back to the Board based on more information. But what I do know is that we continually tell legislators, anyone who has information requests about these programs that we serve 6 percent of the eligible population. So I couldn't recommend, in good faith, at this moment raising it to 150 percent.

MR. CONINE: And regarding his comments don't use it, you lose it, that hasn't been the case in the past for this program.

MS. OEHLER: The uniqueness of 2009 is the fact that for the energy assistance programs, one of the funding sources is going to quadruple, the other one is likely to double, and so we have an unprecedented amount of funding available for these programs, but what we also know is that there are close to 15,000 households on the waiting lists for weatherization. And so it's difficult to believe that there aren't enough clients to serve, existing clients within 125 percent of poverty that we could serve.

MR. CONINE: You're making a commitment to research his 15 counties and see if there's something that we could amend later on.

MS. OEHLER: Yes, sir.

MR. KAMPSCHAFER: I'd like to not restrict that to my 15 counties. I think most of the rural counties are going to have the same problem. We had two other rural representatives here today and both of them agreed with what we were saying.

MR. CONINE: Okay. I think staff is making a commitment to look at that and bring it back if there's some justification.

MR. KAMPSCHAFER: Thank you very much.

MR. CONINE: Thank you for reading all of that stuff.

And Amy, congratulations on these fine comments that they're showering upon staff.

Is that all the witness affirmation forms? I think it is for that particular item. That was 4(b).

MR. GERBER: And Mr. Chairman, as the motion is made, we would respectfully request the ability to just make some type of perfecting corrections.

MR. CONINE: The eleven.

MR. GERBER: Eleven out of 13 changes.

MR. CONINE: Do I hear a motion?

MR. CARDENAS: So moved.

MR. CONINE: Mr. Cardenas makes a motion we approve Item 4(b) with the caveat that we are including eleven of the 13 changes agreed upon by staff. Do I have a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. Item 4(c).

MR. GERBER: Item 4(c), Mr. Chairman, is the QAP for 2009, and we submit it to you for approval.

MS. MEYER: Unless you have specific questions for me to explain, I'd probably just rather move along.

MR. CONINE: We've got public comment. Chris Richardson. Charlie Price is next; it says he's waiting outside -- he had to leave.

MR. RICHARDSON: Good afternoon, Mr. Chairman.

MR. CONINE: Hello, Mr. Richardson.

MR. RICHARDSON: Mr. Gerber and Board. My name is Chris Richardson. I'm here today as part of Texas United Independent Developers; as an executive committee member, we are addressing on behalf of the membership today. We're an Austin-based association of affordable housing developers, and since 1999 we have been fairly active in the legislative process regarding TDHCA. Our mission is to provide high quality and long term financially feasible affordable housing to working families and individuals. We defend private enterprise as an irreplaceable component of the delivery of affordable housing in the process.

We commend the staff on the 2009 Draft QAP and we appreciate very much staff meeting with several of our members to listen to our comments regarding the QAP. We have a couple of additional items that we think would be appropriate to consider. One would be to amend the credit amount in Section D, Section 49.6, increase the amount from $1.4 million to $1.8 million. We've talked here a lot today about increased costs and problems with various properties barely making it, and I think a little bit larger property would create some scale that would help offset some of the per-foot cost problems that they're having. And along with that, it would make it more financially feasible to run 175- or 180-unit property rather than 110- or 114-unit property in many of these areas. So I think that would be a good recommendation that would help the financial feasibility and the do-ability of some of the projects you're hearing about today.

Number two, in the Definition section Subsection 105 under Urban Core, Section 49.3, we would request the following be inserted: "Urban core shall also include any location that is within one-quarter mile of an existing major bus transfer or a regional local rail transport station." In large municipalities, the primary location of business occurs will include census tracts, better containing existing bus transfer centers in regional or local rail for transporting people, not just in the downtown area. Expanding the definition of urban core will ensure affordable housing opportunities are available for low income families with accessible public transportation. Due to rapidly changing fuel, recognition of the sites that are accessible to transportation systems should be encouraged. Thank you. Any questions?

MR. CONINE: Do you have that written?

MR. RICHARDSON: Yes, we submitted it, and I think you got a copy.

MR. CONINE: Any questions of Mr. Richardson?

(No response.)

MR. CONINE: Thank you. Scott Marks. Diana McIver will be next.

MR. MARKS: My name is Scott Marks and I'm with the Coates & Rose Law Firm. I, first of all, want to thank the staff and congratulate the staff on an amazing job of drafting a QAP that meets some really pressing needs in the state and some really challenging circumstances. I've submitted written comments; many of those comments have been incorporated in the QAP, and I really appreciate the process of seeking feedback from the development community.

There's really only one area of the QAP that I'd like to address with you today and that is the project cap. As you know, the state legislature has imposed a cap per developer of $2 million, but there is no project cap in state law, and that is just a cap that has been imposed by the agency. And as I think you've heard from the testimony of the developers today, this is a time when we need maximum flexibility. The pricing has dropped a lot in the syndicator letters that the developers are getting, so the equity pricing has dropped, the construction pricing has increased, and for many deals I think this project cap could be a serious constraint.

And so I would urge you not to have that cap per project in the 2008 QAP and simply go with the state law requirement of a cap per developer of $2 million in credits.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Diana. Mr. Barry Kahn will be next.

MR. KAHN: Excuse me, Mr. Conine, could I speak after Donald Sampley, please?

MR. CONINE: You sure can.

MS. McIVER: Diana McIver. I'm here on behalf of Texas Affiliation of Affordable Housing Providers, and first off I just want to say it's been wonderful working with staff this year on the QAP, but we are very, very much going to miss the queen of the QAP, Ms. Boston, who, as Ms. Ray pointed out earlier, absolutely knows every cite on every page. It's incredible what that woman knows about the QAP.

To echo the comments that TAAHP had shared with you already, I believe, one is -- and a couple of the folks have already commented -- we would just say let's do away with the per-project cap and just take it to $2 million and be done with it. What does $1.8- mean, what does $1.4- mean, might as well just do $2 million.

The other thing, though, that we would recommend is there's a clause in there that allows the cap to be prorated among an experienced developer and a very experienced developer based on the ownership and the developer fee to encourage capacity building, and we just don't think is really a year for capacity building. So after everything you've done today, I think it would be a very good idea to let experienced developers pro rate the project the same way so that experienced developers could come together and do joint ventures as well.

The cap, I think we're going to be okay on the cap because the

'08 QAP, as long as what you did today were forward commitments, it goes against the developer's '08 cap, and so this QAP, the '09 QAP deals with '10 forwards, no '09 forwards, so I think we're going to be fine when all is said and done.

Another of our comments is we had initially said on using your new 30 percent boost to go ahead and take that beyond the rural areas and allow projects in census tracts that have not received an allocation of credits five years, allow those to have that 30 percent boost. At this point in time we're saying maybe we just need to give all projects a 30 percent boost and just see if we can get any of them to work.

And then the third comment that we have is on those local political subdivision points. You have halved the points for scoring for rural communities but you have not halved it for those communities that don't get their own allocations of funds, and we would just say to level that playing field that communities like Victoria and Texas City that don't get HOME allocations, they should be able to have that same scoring because they're not in the participating jurisdictions which are like San Antonio and Austin.

One other comment I would make, and I think it's a fairly minor change to make in the QAP. The QAP talks about having a letter of commitment from a syndicator. How about if we change that to a letter of interest from a syndicator? We think that best this year we're going to be able to get some really wishy-washy letters, so maybe if we could get a little bit of slack on that.

And that ends my comments. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Donald Sampley.

MR. SAMPLEY: My name is Donald Sampley, I'm the assistant director of the Housing and Community Development Department of the City of Houston.

With all the discussion today about the Ike credits, we're asking for one change -- and I've passed out the copies -- in 49.6(d) the credit amount, we would like the $1.4 million cap to be waived in Region 5 and Region 6 for 2009 and 2010. Additionally, there's language there that reads: Unless the legislature revises Government Code Section 2306.6711(b), in which case the revised amounts will apply. It's our intention to petition the legislature for a waiver of the per-developer cap in Region 5 and Region 6 for 2009 and 2010. It's been made very clear to me by the counsel that that will not apply to 2009 because it will come too late into the cycle, but we would like to see it in 2010

Quick numbers is in those two regions next year we have roughly $45 million in credits and the following year $35 million in credits. We are trying to assist in the sale of those credits. Our mayor has committed to participate in trying to reach our corporate citizens in the greater Southeast Texas area, Houston in particular, to convince them to buy credits when they don't normally buy at a higher price than what the market is. As I say, he's committed and he committed again in a meeting with the director and Member Flores, and he committed again last night that he stands ready to do that.

We hope to attract developers from other parts of the state that do not normally develop in Houston that will come and do a second deal or a third deal in the greater Southeast Texas area without endangering their normal business in their communities. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Barry Kahn.

MR. KAHN: I'll pass, Mr. Chairman.

MR. CONINE: Cynthia Bast.

MS. BAST: Pass.

MR. CONINE: Jennifer Hicks and Cyrus Reed gave me some comments for the record that I'll submit but basically applauding -- Jennifer Hicks was applauding the green building stuff that's in there, essentially.

That's all the public comment I have on the QAP. Any further comments from staff after hearing some of those comments?

MS. MEYER: No, sir.

MR. CONINE: Of course you do.

MR. HAMBY: Of course I do. My concern, Mr. Chairman, is with the definition of urban core where they're talking about locating within one-quarter mile of bus transfer centers. Using like the Dallas region as an example, that would put Richardson in the urban core of Dallas where the bus transfer stations are. So while not necessarily opposed to it, there is a 30 percent boost available to people who are building within a quarter mile of a bus transfer. Just putting that into the definition of the urban core at this time might dilute the definition of urban core at this point in time. We may find it works, but that broad of a definition for bus transfer could have a problem.

MR. CONINE: Mr. Gouris, either you or Robbye, I'll let you both answer this question. The comments on the per-project cap being either changed or lifted from $1.4 million to some other number, and assuming the legislature meets and makes a decision to move the $2 million number to something higher effective September 1, how is that going to impact or would it impact the 2009 round at this point?

MR. GOURIS: It would reduce the number of deals that would otherwise get done and increase their size, and obviously, increase their size as far as number of units per deal. That probably would have a positive impact in the industry in that what we hear from syndicators and investors is they prefer the larger deals. That would have a negative impact on rural deals which will be that much further away from getting done in Texas because there will be more of a disparity between the large urban deal and the small rural deal.

MR. CONINE: And do we have a per-unit cap right now -- not a per-unit, I mean a total number of units cap per project?

MS. MEYER: Yes, we do: 252 with 200 restricted units for the 9 percent.

MR. GOURIS: So 200 restricted units would be $10,000 in credit per unit. It's a little more than where we've been recently but we've been pushing that.

MR. CONINE: We're pushing up to it. And let me ask you this, if we were to exempt the per-project cap for Regions 5 and 6 where all the credits are initially, but keep the cap in place over the rest of the state, that would somewhat protect the rural side of the ledger, would it not? Any problems with doing that?

MR. GOURIS: Well, I think the reason the rural side might be impacted is in the perception of doing deals in Texas you can do some bigger urban deals and those would get the eye of the investment community, the syndicator community. Being able to do those in 5 and 6 or the entire state would have the same impact, potentially -- if it has any impact at all -- to those rural deals that are just naturally going to be smaller.

MR. CONINE: But how are you going to find enough land location without them stumbling all over each other in 5 and 6.

MR. GOURIS: Right. I think it makes a lot of sense in 5 and 6 to be able to do bigger deals.

MR. FLORES: So Tom, the recommendation was that it be limited for the next three years -- I guess it was two years. So he's only talking about these compressed periods where the money has come into that particular region.

MR. GOURIS: Right. The other thing that it would do, depending on what you do with the experienced joint venture issue, it would limit the number of deals per developer so that a developer wouldn't come in with two deals because they'd do a $2 million deal instead of coming in to do two separate transactions. So there's a little bit of that to think about.

But you're right, limiting it to the number of years would potentially limit the impact. I would imagine, though, once it falls and if the legislature gets ahold of it, the developer cap, they'll either raise that or do away with that, and then there will be additional pressure to make the $2 million per-unit cap be permanent. We're not going to go backwards, I would imagine.

MS. MEYER: Our general counsel has stated that limiting that only to 5 and 6 may be a little problematic because we've not had comment. If we undid it altogether, then it wouldn't be as much of a question, but to limit it only to 5 and 6 may be a little problematic on the public comment side.

MR. FLORES: So that wold mean that just about any changes we make it has to go out for public notice? Is that what you're saying? Come on back here, Kevin.

MS. MEYER: Lifting it only in 5 and 6.

MR. HAMBY: The reason because that's a fairly big issue that had no public discussion. I mean, the same reason you're lifting it in 5 and 6 could be made for 11, 12, 13.

MR. FLORES: What if we took the --

MR. HAMBY: If we took it out altogether, it's fine.

MR. FLORES: No, change that subject and then change that to the developer max of $1.4- per project, or whatever it was.

MR. HAMBY: You can adjust that number any way you want to as long as you do it across the board.

MR. FLORES: But I'm talking about action taken this meeting.

MR. HAMBY: At this meeting you can adjust it.

MR. FLORES: Because that's a small potato and the other one is a big one?

MR. HAMBY: Well, the reason is because you're giving preferable treatment to two regions and the other regions would probably want to jump up and say they also had a problem. In El Paso they talk about having flooding two years ago, and if you go to Dallas they talk about tornadoes, and if you go to Central Texas they talk about fires. But you can raise the whole thing.

MR. FLORES: Could we call it a federally -- whatever you call it -- emergency area, or whatever.

MR. CONINE: Disaster area.

MR. FLORES: Disaster area.

MR. HAMBY: Well, again, that's a big topic to just kind of unleash without any public.

MR. FLORES: So we can't discuss it.

MR. HAMBY: You can discuss it, but it's big.

MR. FLORES: We can't do anything about changing without going out for public comment.

MR. HAMBY: If the Board decides it's not a big topic, to me that's a pretty big topic to talk about preferential treatment for two regions or to specific regions that other regions and people who build in West Texas would probably want to talk to you about why loss of population in rural Texas isn't more important than rebuilding in Ike because they're losing their entire communities. So it's a big topic to just kind of spring.

MR. FLORES: When I ask you any questions, Kevin, you always answer them wrong. Thank you.

(General laughter.)

MR. CONINE: Robbye, can I ask you a couple of other things. The comment about the scoring of commitment of development funding by local political subdivisions, would you have any issues with TAAHP's recommendation being applicable to all non-PJs as opposed to just rurals?

MS. MEYER: Not particularly.

MR. CONINE: Okay.

MS. MEYER: Because in non-PJ areas they can apply for our funds so it didn't seem problematic at the time, but it's not major.

MR. CONINE: And we heard some testimony earlier this morning, a long time ago, about the definition of substantial construction in the schedule and wanting to go back to the old way of doing things.

MS. MEYER: The QAP only refers to the Compliance Rules, and you're going to do the Compliance Rules here in just a minute in draft form, so they can actually make public comment on those rules, and you'll see the final copy of those in January. So the Compliance Rules are going out for public comment now.

MR. CONINE: We can fix that later.

MS. MEYER: And we refer to the Compliance Rules.

MR. CONINE: I think that's all the questions I had. Any further questions from the Board?

Just to comment, I think given the state of the credit markets being what they are, and even allowing for what we did earlier today in the forward commitment arena, I'm thinking that the attraction of larger projects, creating more efficiencies, hoping to drive some of the costs down, to me the removal of the $1.4- cap probably wouldn't be a bad idea for next year. Everything I'm hearing and all the feedback I'm getting sure is leaning that direction, and essentially that would give you a 200-unit project, plus or minus, and I find those very workable and manageable and efficient -- they'd love it to be 400 in some cases -- but I can go along with that. And I think under the TAAHP recommendations, I'd certainly like to see number three added in there about the local political subdivision scoring that Robbye and I just talked about.

Those are two changes I'd recommend to the QAP. If I could get a motion, it would be great.

MR. FLORES: Explain to me the local political subdivision. I missed that one.

MR. CONINE: Robbye, do you want to explain that to him?

MS. MEYER: What you're asking is for the percentages to apply or not apply -- Diana, I'm sorry -- apply to non-PJ areas which our HOME funds go into non-PJ areas which that's the reason why we changed that and the percentages because they can apply for our HOME funds for LPS.

MR. CONINE: It expands the maximum point area from just rural to those that are non-PJ which would mean a suburb, basically, of an urban city.

MR. FLORES: Mr. Chairman, I'm willing to make a motion to include those. Does anybody else want to add any more to it while I'm at it?

MR. CONINE: You're making a motion to approve the QAP with the changes of removing the per-project cap and just leaving it at $2 million.

MR. FLORES: Those two comments made by TAAHP, 49.6 and 49.9(I)(5)(B), so shown I this letter.

MS. MEYER: I've got it and I'll change it how TAAHP recommended.

MR. CONINE: Do I hear a second to that motion?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Robbye, 4(d) is pulled?

MS. MEYER: The Bond Rules, yes.

MR. GERBER: So we'll go on to Item 4(e), Compliance Monitoring Rules. Patricia, do you want to come forward and give a quick highlight of them.

MR. CONINE: Hello, Ms. Murphy.

MS. MURPHY: Good afternoon. I'm Patricia Murphy, director of the Compliance Division.

MR. CONINE: It's so good to see you.

MS. MURPHY: Good to see you too. Do you have any specific questions about the Compliance Rules or anything you'd like me to go over specifically?

MR. CONINE: Does this give you all the tools you need to do your job effectively?

MS. MURPHY: It does.

MR. CONINE: Good. I don't have any specific questions. Was this where the substantial completion thing was?

MS. MURPHY: Yes.

MR. CONINE: Let's walk through that.

MS. MURPHY: Okay. Robbye and I had an opportunity to talk and have come up with some new language. Would you like to hear some suggestions?

MR. CONINE: I'd love to, yes.

MS. MURPHY: Great. So this is on page 3 of 31 of the Compliance Monitoring Rules, it's in Section 60.102, and it would read: Substantial Construction, the minimum activity necessary to meet the requirements of substantial construction for new construction developments will be defined as: completion of the foundation of the clubhouse, if applicable; having all permits; all grading completed, not including landscaping; all major utility transmission infrastructure in place.

MR. CONINE: Say that one more time again.

MS. MURPHY: All major utility transmission infrastructure in place.

MR. CONINE: Okay.

MS. MURPHY: All right of way access; and one of the following: 100 percent of the foundations in place and 50 percent of the framing completed, or 25 percent of all residential buildings roofed.

MR. CONINE: That sounds like a good builder definition to me. Great.

MR. FLORES: How is a major utility defined?

MS. MURPHY: So they would have sewer and water and gas lines and things in place.

MR. FLORES: Where, up to the building or up to the right of way line?

MR. CONINE: Let me translate, if I might, as a builder. I think what they're talking about is the infrastructure amongst all the publicly dedicated roads with service outlets stubbed out to the curb, typically, for each building, so the plumber can come by and hook them up later on.

MS. MURPHY: So that's one change to the Compliance Monitoring Rules since they were published in your Board books.

The other significant changes to the rules are in relation to HR 3221 and some of the changes in the administration of the program. In addition, the IRS released a final Treasury Regulation regarding utility allowances in July of 2008 and these rules incorporate those changes. And if you'd like me to expand on any of that, I'd be happy to.

MR. CONINE: I'm good with that.

MS. MURPHY: This is just going out for comment at this point.

MR. CONINE: Right. Okay, any further questions of Ms. Patricia? If not, I'll entertain a motion.

MS. RAY: Mr. Chairman, I move to approve the Compliance Rules, as amended, to go out for public comment.

MR. CONINE: Do I hear a second?

MS. BINGHAM: I second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and Board members, the next item is Item 4(f) which is the HOME Rules. Just as with our other rules, these have gone through substantial public review and we're asking that the HOME Rules be adopted for inclusion in the Texas Administrative Code. Is there public comment on these, Mr. Conine?

MR. CONINE: Yes, I have one.

MR. GERBER: Why don't we hear public comment.

MR. CONINE: Ken Coignet. I'm sorry if I butchered that up.

MR. COIGNET: My name is Ken Coignet; I'm with Public Management. And we appreciate the staff's work in getting some of these rules changed with regard to the amount of dollars used per unit. And I just wanted to clarify the soft costs, are they exclusive of the construction and are the closing costs exclusive of the construction, because they put in there a $73 per square foot of construction dollars and in the past the soft costs was 12 percent of the entire amount. I want to know if they're added onto or they're on top of the construction, and in addition, are the closing costs added on top of the construction.

In addition, we had heard that they were just going to require title reports as opposed to title commitments, but I'm reading in the rules it says title policy which to me that's a title commitment. And was some of the issue with some of the title agents in getting these loans closed is they didn't want to go as far as providing that title commitment.

And then what I'm reading is it was $73 a square foot for construction only and then $80,000 when an aerobic system and demolition was included. I just want to clarify that we're able to add the soft costs on top of those construction costs.

MR. CONINE: You've got lots of questions.

MR. GERBER: Jeannie Arellano, do you want to come forward and address those comments and anything else you think we should highlight for the Board

MS. ARELLANO: Jeannie Arellano, director of the HOME Division. Good afternoon. I'm going to try to be brief.

The questions as presented -- I'm just answering the questions that he's asked to clarify -- yes, the soft costs and the closing costs are on top of the maximum amount that we've identified in that section of $73 per square foot, so they are on top of that. However, I've received a similar question from a staff member of the same consulting firm that has asked whether or not the 12 percent cap applies. The 12 percent cap was eliminated so it's only the soft cost line items, the line item caps that are in place at this point, but it is on top of those hard costs.

As it relates to title policy, I'm not aware of where our rules mention a title policy. We have made a change to requiring a title report, but some of the technicalities of what that title report needs to look like and what needs to be covered in it, we may have to go back and clarify. I think those are the two questions.

MR. COIGNET: It was on 52 of 64 says mortgagee title policy.

MS. ARELLANO: Do you want to show it to me? This is for Multifamily Housing.

MR. COIGNET: Okay. So it's going to be a title report then.

MS. ARELLANO: The section that refers to the owner-occupied, yes, refers to title report.

MR. CONINE: Okay. Any other questions? Again, these are going out for circulation. Is that right?

MR. GERBER: These are done. This coming program year's rules. And I'd just add that there's a substantial redraft of these rules that was accomplished, and Jeannie and her team did a great job -- as evidenced by the tremendous lack of public comment.

MR. CONINE: Way to go, Jeannie.

MS. ARELLANO: Thank you.

MR. CONINE: How about a motion?

MS. RAY: Mr. Chairman, I move that we adopt the HOME Rules as presented.

MR. CONINE: Motion to approve as presented. Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. 4(g)

MR. GERBER: Mr. Chairman, Item 4(g) is the final approval of the order adopting repeal of the existing Housing Trust Fund Rules and replacement of it with the final order adopting the new section of the Texas Administrative Code for Housing Trust Fund Rules taken out for public comment, and we got quite a bit of it, we got a fair amount of public comment and we've incorporated it and believe we have done a good job with the program design. Anything you'd want to add, Jeannie?

MS. ARELLANO: Nothing that I need to add. We addressed whatever public comment and there were very small changes.

MR. GERBER: Is there any public comment, Mr. Conine?

MR. CONINE: No, I don't have any public comment.

MR. FLORES: Move adoption of the Housing Trust Fund Rules.

MR. CONINE: Move adoption of 4(g). Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: May I please make a comment?

MR. CONINE: Yes, you may.

MS. RAY: Boy, what a difference a year makes. I want to thank Mr. Gerber and certainly his staff for working with our stakeholder community to make this process of adjusting the rules as painless as it's been today. I'm amazed. Thank you very much.

MR. GERBER: Thank you, Ms. Ray. And Jeannie, why don't you introduce Dee, our new HTF administrator.

MS. ARELLANO: I'd just like to introduce Dee Copeland to you. She is our Housing Trust Fund program administrator, so she will be handling moving the Housing Trust Fund Program forward, and hopefully with an approved exceptional item for a lot more Housing Trust Fund dollars.

MR. CONINE: Great.

MR. GERBER: We are very excited about Dee coming on board. She's done some really interesting work here in the City of Austin, particularly with work going on at the Mueller redevelopment and some extensive real estate experience, and she and Carmen, who works in our HOME Division, are going to be a great team helping to move the HTF Program forward.

MR. CONINE: So we lose one to Austin but we stole one back? Welcome aboard, Dee.

(General laughter and applause.)

MR. CONINE: Item 5, Mr. Gerber.

MR. GERBER: Mr. Gouris is going to talk about the Neighborhood Stabilization Program.

MR. GOURIS: The Neighborhood Stabilization Program is a new HUD program authorized by the HERA Act. It was created to stabilize property values by funding acquisition, rehabilitation, redevelopment, rental and resale of abandoned, vacant and foreclosed properties. Several cities in Texas received a direct allocation from HUD and the State received the remaining $101 million, and we're required to submit a plan to HUD -- a draft plan needs to be posted by the 15th. We've already done that with the posting of the plan that we presented to you, bu the final plan has to be turned in by December 1. It's all on a very fast track to get done.

And so what we're asking you to do today is to approve this plan as a draft, provide authorization for the executive director to take any public comment and amend the plan as necessary, turn that plan in on December 1. On the 18th we will come back to you with some more detailed schematics of what the guidelines will be and what the application for these funds will be.

Generally speaking, what we're trying to do is take this $101 million, break it down into three groups. The first group is going to get a direct allocation, the second group is going to be in a select pool will be eligible communities to apply for an allocation of at least $500,000 to have some impact in their community, and then the third group is going to be a land bank group because many communities might be interested in seeing land banking occur but they don't have the tools available to them, so that third group of $10 million is going to be administered or worked through the Texas State Affordable Housing Corporation who has got the capacity or ability to create a land bank and to help communities with that land bank activity.

That's the plan in a nutshell. There are several changes that we've made to the plan that was presented on Sunday; I can go through those with you. They're all based on public comment and comment from HUD that we've received to date.

MR. CONINE: Since Sunday?

MR. GOURIS: Since Sunday. It's been on a very fast track, lots of folks have been watching this. The one comment you had earlier in the discussion earlier today was with regard to the 1 percent versus zero percent loan. Again, we use the 1 percent to be comparable to a USDA transaction. We, frankly, did recognize that some participants and potential participants might not participate if they have a charge or interest on these loans. We were intending to make them very affordable in order to target that 50 percent area median income household. Twenty-five percent of the entire pool of funds that we use have to target that income group, so we are looking at ways to do that, and one way is to provide permanent financing at a very affordable rate and that's where we came up with the 1 percent because it matches the USDA rate.

MR. GERBER: It's also a reflection of kind of the hurried nature of some of this, and to say that this thing is not due to HUD until December 1, we were on a very short time line and have been on a short leash with HUD to pull together some pretty tough concepts. I think we'd be asking for some broad latitude and the opportunity to get your approval of the plan but also get your direction to share with you individually afterwards and to get your comments before we submit on December 1 for those Board members that are interested. But we felt we needed to bring it today because it is required to be at HUD by December 1.

But we've really only had about three weeks to piece it together -- less than that, and in that time we've done a roundtable with 150 people and we've tried to work with our partners at ORCA and at the Texas State Affordable Housing Corporation, and it's been a challenging thing to piece together.

MR. GOURIS: Yes, that's correct.

MR. GERBER: And I think we could probably get there and we'd be very sensitive to the concerns expressed by MAT and Habitat and I think there will be other concerns that we'll have to address as well as we iron out the final program design, and that's probably true for our partners as well as we really finalize this before we send it to HUD on December 1. And also, HUD has given us some feedback.

MR. GOURIS: Yes, they have, and there are a couple of things we want to add because of HUD feedback. Our definition of blighted area needs to really be defining a blighted structure. We've got a definition for that that HUD has in their rules that we're going to recommend that we adopt. To be clear, the list of counties that we listed here, only those in the select pool and the direct awards, communities in those counties would be eligible. An entity could be a city, a county or a non-profit or other entity that works with the city or the county to apply for these funds, so we're making it as broad as possible to try to get these funds utilized as quickly as possible. All have to be obligated in 18 months from the time that we get the funds, and that's probably going to be in January.

MR. FLORES: So would a water district or a MUD qualify as the entity?

MR. GOURIS: Qualify as an entity that could apply.

MR. FLORES: Yes.

MR. GOURIS: Have to work through that. That's a good question

MR. FLORES: That sounds kind of like a definite maybe.

MR. GOURIS: Definite maybe. The county that it's in would definitely be able to apply. What we're looking for from all those locations is for a collaborative effort, for them to come forward in a collaborative way to work together to bring an application forward to us because this isn't something that they're going to be able to do all by themselves. And if a MUD or a utility district worked with their city, worked with their county to bring something forward, they would definitely be able to participate.

MR. GERBER: However, we're required under HUD's guidelines to really target those areas of greatest need, that's really standing out, so to the extent that those entities would help fulfill that requirement, we'd certainly, I think, entertain them applying. Some of the things we're struggling with is trying to figure out you get rural areas that have some real challenges with foreclosures and some the issues that are eligible for funding sort of in this mix.

MR. CONINE: Any other questions of Tom?

MS. BINGHAM: Mr. Chair, I would move staff's recommendation to approve in draft form, providing the executive director and staff with time to accommodate or hear other comment/feedback and then return to us with any changes.

MR. GERBER: Actually, it has to be submitted on December 1, so if we could submit it to you just individually and get your comments.

MS. BINGHAM: That's my intent, I'm just not saying it right. I'm moving to approve the recommendation to approve it. I think the way the recommendation was originally worded was in draft, but I understand. We're approving it and you would just report back to us any other accommodations. Is that sufficient, Mr. Chair?

MS. RAY: Second.

MR. CONINE: I think so, and I heard a second by Ms. Ray. My only comment is that I'm too tired to argue about this this afternoon but I have some concerns about this, so you need to see me before we get to December 1.

MR. GOURIS: Definitely, sir.

MR. CONINE: Any other comments?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. Item 6.

MR. GERBER: The next item is Real Estate Analysis.

MR. GOURIS: No appeals.

MR. GERBER: No appeals, then we'll skip the status report. So we'll move to Disaster Recovery. We'll skip Item 7(a) and hold off on that until December. Item 7(b), Ms. Molinari.

MS. MOLINARI: Good afternoon. Jennifer Molinari, CDBG Disaster Recovery Program coordinator.

Mr. Chair and Board members, in front of you you have Item 7(b) which are requests from the Houston-Galveston Area Council and Southeast Texas Regional Planning Commission for extensions to their contracts which are scheduled to end December 31. The Deep East Texas Council of Governments is not requesting an extension. They do project completion by the end of this year.

HGAC and Southeast Texas Regional Planning Commission experienced delays primarily resulting from Hurricane Ike, as well as other local code issues. I'm happy to report that Hurricane Ike only destroyed home in the Hurricane Rita program and that was located in Bridge City. HGAC is requesting an extension to February 28 of 2009, and additionally a reallocation of funds from rehabilitation to reconstruction an increase in the project delivery line item by $75,000 to support their activities, and a reduction in beneficiaries.

I'd also like to note that the table in your Board book related to their requested budget adjustment is not correct, however, the narrative describing the transaction is correct, and to please refer to your handout that you have before you today.

The Southeast Texas Regional Planning Commission is requesting an extension through April 30 of 2009. They also had Hurricane Ike related delays that, in combination with other things, have resulted in their inability to complete homes by December 31.

Any questions?

MR. CONINE: Any questions of the staff?

MR. FLORES: Yes, Mr. Chairman. Jennifer, you say the Deep East Texas folks didn't ask for one?

MS. MOLINARI: That's correct.

MR. FLORES: Are they in better shape than the other two?

MR. GERBER: They did a lot more manufactured homes, Mr. Flores, so they've pretty much wrapped up their contract.

MR. FLORES: Okay.

MS. MOLINARI: Right. They've got about eight homes left and we'll be done.

MR. FLORES: Thank you. Move approval.

MR. CONINE: Move approval.

MS. RAY: Second.

MR. CONINE: There's a second. Is there any further discussion? Second by Ms. Ray. Wait a minute, I've got public comment? Chuck Wimple is out here, I bet.

MR. GERBER: He's passing.

MR. CONINE: You're a good man.

All in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. 7(c).

MR. GERBER: Ms. Joyce.

MS. JOYCE: Jenn Joyce, CDBG Program manager, and I am here to discuss Item 7© which is a request for an amendment on the Round 2 CDBG Action Plan, and I assume that you want a very, very short version.

MR. CONINE: Yes.

MS. JOYCE: Very, very short version is that we are proposing to strike the current maximum limitations that are in the Action Plan. That would basically allow you as a board to make any changes to maximum limitations, moving forward without having to take it back to HUD over and over. In addition to that particular request, if you could take a look at your attachment to Agenda Item 7(c) -- which was also provided to the public -- we're hoping to get guidance from you as a board for new maximum draft limitations that we could that we could take back to the public and then bring revised maximum limitations for the CDBG Program to the December meeting.

If you approve staff's recommendation, you would be approving the limits that are under the required line at the top of the table. And I can clarify that if you need.

DR. MUÑOZ: So currently, Jenn, it's $60- to $75-?

MS. JOYCE: Correct. If you take a look at your attachment 7(c), the very first line item that says Building Construction Current Limits, you can see the current limits which are for a household of one to four at $60-, for five to six person household, $67,500, and for seven or more it's $75,000. As we've proposed it, we would increase those limits to take out as a draft for the public to those that are under the required item which would be $78,775 for one to four, $86,275 for households of five to six, and $93,775 for seven or more person household. This is based on substantiated costs that we've been getting from ACS, our contractor who is performing the program.

Kevin Hamby is making sure I clarify that this would include the entire amount for all the hard costs of construction as well as additional soft costs and additional mediation costs that are a result of insurance, lead based paint abatement, asbestos abatement, demolition and closing costs.

MR. HAMBY: What we've found, members, is that whenever we get down there the amounts that we had for building actually covered only the building actual construction of the house. We still had demolition, we still had some abatement that we had to do from time to time, we had to do lot preparation, closing costs and insurance, and that's the difference in the amount that we're proposing. We're taking it back out to the public so hopefully when it comes back to you in December, that will be the last time we need to do it. We might need to put in a 3 percent escalator clause or something, but that will be decided then, and we're hoping the public will give us all the feedback we need, say this is what it actually takes to build.

We're talking about building efficient houses, we're actually currently -- and the reason Kelly is not here today, she's talking to some people and she's showing some people around down there who could build mass production housing, and so we're looking at that. And that's why these prices have to go up because the homes can be built but then we have to come up with closing costs, demolition of the existing property and readiness of the existing lot. So that's the difference and that's the jump.

MS. JOYCE: I was trying to shorten it for you. Sorry.

MR. GERBER: Anything you want to add to it, Mike? Come on up. Mike Jaroe is our former project manager for ACS,

MR. JAROE: As essentially stated, the raising of the cap is to account for the closing costs, the abatement, demolition, the insurance, all of the costs that are not covered under the current cap. Mike Jaroe; I'm with ACS.

MR. CONINE: Any other questions of staff? How about a motion to approve?

MR. FLORES: Motion to approve, Mr. Chairman.

MR. CONINE: Is there a second?

MS. BINGHAM: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MS. JOYCE: Thank you.

MR. CONINE: You're welcome.

MR. GERBER: Mr. Chairman and Board members, Item 8 are the Community Affairs items. Amy, walk us through them.

MS. OEHLER: Amy Oehler, director of Community Affairs.

Mr. Chairman and Board members, Item 8(a) relates to the request for the Boards to approve staff recommendations to award the Community Services Block Grant, the Comprehensive Energy Assistance Program, and the Weatherization Assistance Program to sub-recipients to provide services in Duval and McMullen counties.

Based on the scoring of applications, staff recommends designating Bee Community Action Agency as a CSBG eligible entity to administer the three programs just mentioned in McMullen County. Staff also recommends the Institute of Rural Development, Inc. to receive the CSBG, CEAP and Weatherization grants in Duval County.

MR. CONINE: Any questions?

MR. FLORES: Move approval.

MR. CONINE: Motion by Mr. Flores to approve. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. 8(b).

MS. OEHLER: Was there a decision to strike 8(b)? Item 8(b) provides an action plan for Program Year 2009 LIHEAP award. The LIHEAP award of $169 million is significantly higher than the historical award of $45 million. Staff proposes a holdover of 10 percent of the grant for contingency purposes for Program Year 2009 or Program Year 2010. Staff proposes to use the same methodology to award the balance of the 2009 LIHEAP funding. The LIHEAP grant funds both the Comprehensive Energy Assistance Program as well as the Weatherization Assistance Program.

Staff will bring the proposed 2009 CEAP awards to the December Board meeting for your review and approval, and the proposed 2009 Weatherization awards will be presented to the Board in early 2009.

MR. CONINE: We've got public comment from Mr. Art Kampschafer. Did he leave? Okay.

Any other discussion or questions of staff?

MR. FLORES: I've got a question. Amy, this is essentially we're approving your budget and then you'll come back with the actual awards at a later time.

MS. OEHLER: The reason that we brought this item to you today is because we received a significant amount of inquiries from the sub-recipients as well as the general public because of the significant increase in funds, and so many of them wanted to be able to start planning for 2009, but we didn't want to release the funding figures until you had an opportunity to look at them. And then we'll come back to you in December with the awards. The reason we didn't want to wait until December to make that information publicly available is that they will have to start planning for 2009 as early as next week. Because in most cases, their funding has tripled if not quadrupled from previous years.

So this is really just for more informational purposes, as well as giving you an opportunity to see the amount of funding so that we can make it available to the public.

MR. GERBER: We're struggling to digest it. We wan to make sure that our sub-recipients have that same ability.

MR. FLORES: But did I say it right? I still don't have an answer. I asked are we just approving the overall budget and you'll come back with the specifics, or are we approving this?

MS. OEHLER: Yes.

MR. FLORES: Yes, what?

MS. OEHLER: I'm sorry. Approving the spreadsheet. Actually we brought to you a plan and the plan is to use the same methodology that we've used in the past along with some of the provisions that the U.S. Department of HHS has asked us to provide which is the 10 percent holdover. We wanted to just make this plan available to you as well as we've provided the specific funding amounts for each organization so that they can start planning.

So to answer your question, we do need you to approve the spreadsheet as well.

MR. GERBER: We'll be coming back next month with the specific awards, but for planning purposes and in general, this is a budget document that they can begin to work through.

MR. HAMBY: This is a slightly different group of people, Mr. Flores, because these are evergreen type programs where these people get funded every year because that's the way the federal law requires us to do it. So the award process is a lot less difficult in the sense that we know who is going to get it, and then once you approve the formula, that's the percentage that they start working on, and then we bring back the formal awards.

MR. FLORES: It sounds like to me the deal is done once you pass this then.

MR. HAMBY: Pretty much.

MR. FLORES: Yes, okay. I understand and that's fine, I recommend approval.

MR. CONINE: Motion to approve by Mr. Flores. Is there a second?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MS. OEHLER: Item 8(c) would allow the Department to release the 2009 Emergency Shelter Grants Program Notice of Funding Availability. Funding from HUD For fiscal year 2009 is expected to be $5 million. If approved, the NOFA will be released next week and applications will be due to the Department January 8, 2009.

MR. GERBER: There's n substantial change in this year's NOFA from last year's NOFA.

MS. OEHLER: Correct.

MS. RAY: Mr. Chair, is there any public comment?

MR. CONINE: No.

MS. RAY: Mr. Chairman, I move staff recommendation.

MR. CONINE: Move staff recommendation. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: And that's about a $5 million program.

MS. OEHLER: Yes, correct. Last year we funded 77 non-profit organizations with the $5 million.

MR. CONINE: Thank you, Amy.

MS. OEHLER: Thank you.

MR. CONINE: Now our next problem child, Matt Pogor.

MR. POGOR: Good afternoon. 9(a), Chairman and Board members, if it's okay with the Board, I'd like to maybe take all Items 9(a), 9(b) and 9(c) together since they are a resolution that looks at the extension of certificate purchase periods.

MR. CONINE: You're welcome to do so.

MR. POGOR: Okay. Chairman and Board members, Items 9(a), 9(b) and 9(c) are requesting approval of Resolutions 09-002, 09-003 and 09-004, authorizing extension of the certificate purchase period for Single Family Mortgage Revenue Bonds 2006 Series A through C, 2007 Series A, and 2007 Series B. The certificate purchase period relates to the above mentioned TDHCA Single Family Mortgage Revenue will terminate over the next several months. With these resolutions, they will extend the certificate purchase periods so we should be able to purchase new mortgages if there was any termination on those.

MR. CONINE: Is that it?

MR. POGOR: Unless you have any questions.

MR. CONINE: Any questions? Do you want to approve the extensions or not?

MR. FLORES: I thought you wanted all of them bundled together.

MR. CONINE: We did. We rolled a, b and c together. Why don't you make a motion, Mr. Flores, that we approve the extensions per staff recommendations.

MR. FLORES: I move staff recommendations for Items 9(a), (9)b, and (9)c.

MR. CONINE: Motion to approve 9(a), (b), and (c), per staff recommendations. Is there a second?

MS. RAY: I second it.

MR. CONINE: Ms. Ray seconded. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. POGOR: Item 9(d), I'd like to pull that and I'll be back to you in December.

MR. CONINE: Okay.

MR. POGOR: Item 9(e), Chairman and Board members, Item 9(e) is requesting approval of Resolution 09-007, authorizing application to the Texas Bond Review Board for reservation of HR 3321 Single Family Private Activity Bond authority in the amount of $120 million, and presentation, discussion and approval of a mortgage certificate program for First Time Homebuyer Program 73 to be administered by the Texas Department of Housing and Community Affairs.

TDHCA is currently administering is latest MCC Program that was issued June 26 of 2008. Out of $15 million in MCC authority, TDHCA has issued $9.2 million leaving about $5.8 million of authority. TDHCA expects to be out of MCC authority in January of 2009. By approving this resolution, TDHCA will be able to continue issuing new MCCs under Program 73 in February of 2009. Staff is recommending approval of Resolution 09-007.

MR. CONINE: Essentially we're yelling Uncle to the bond market and doing some more MCCs to the bond market to square it away. Any questions? Do I hear a motion?

MR. FLORES: Move staff recommendation.

MR. CONINE: Move approval of 9(e) and Resolution 09-007. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none --

MR. GERBER: This allows us up to the $120 million, so if something were to change in the market and you decided that going to a bond structure --

MR. POGOR: This $120 million gives us the capability of using $60 million of that HR 3321, we're going to use $60 million of the MCC, we're going to use $60 million of our 2008 volume cap for the $120 million MCC. We'll have $60 million of that HR 3221 left over for a carry forward in the next year.

MR. CONINE: I think we've got more than we can use right now.

MR. POGOR: Yes.

MS. BINGHAM: Even though we did everything we did this morning or this afternoon.

MR. CONINE: Seems to be an abundance.

MR. POGOR: In Single Family we have like $180 million of HR 3221 we'd be drawing down.

MR. CONINE: No further discussion, I'll call the question. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. 9(f).

MR. POGOR: Now comes the fun one. Chairman and Board members, Item 9(f) is requesting approval of Resolution 09-008, authorizing the Department to seek a change in liquidity providers due to a rating agency downgrade of current providers of seven outstanding variable rate demand obligations and a liquidity provider for a issuance of a Single Family Variable Rate Mortgage Revenue Bond Program 71.

TDHCA has a standby purchase agreement with two liquidity providers, one with DEFA, totaling $175 million, and one with DEXIA, totaling $192 million. After the Lehman Brothers bankruptcy and the AIG bailout in mid September -- which was after our Board meeting -- DEFA was downgraded to Triple B and DEXIA was downgraded to Double A minus, which caused $286 million out of our possible $367 million of our Variable Rate Demand Bonds to become bank bonds.

Bank bonds are bonds that the re-marketing agent was unable to re-market so the liquidity providers stepped in to purchase these bonds. When DEFA purchased these bonds they were downgraded from A-1 to A-2; the bonds purchased by DEXIA were not downgraded. Our financial advisors and professionals have advised staff to find replacements for both DEFA and DEXIA before entering into the market with the Single Family Bond Program you approved on September 4.

Current liquidity providers are not offering any liquidity to anyone at this time so TDHCA is unable to select liquidity providers through a normal request for proposal process. TDHCA is searching for new liquidity providers such as the Federal Home Loan Bank of Dallas, the Texas Comptroller of Public Accounts and Fannie Mae.

With Board approval, the Department will terminate agreements with DEFA and DEXIA and replace them with one or more to be determined highly rated liquidity providers. Staff is requesting that the Board delegate authority to the chairman of the Board, or executive director, the authorized representatives, to select a new liquidity provider and approve the final terms of the liquidity facility. The authorized representatives shall select a liquidity provider that will provide a rating on the bonds that is sufficient to allow the bonds to be successfully re-marketed.

Staff is recommending approval of Resolution 09-008, Item 9(f).

MR. CONINE: I was with Chairman Lockhart on Monday and Tuesday and heard him speak directly to this issue relative to allowing Fannie Mae to provide liquidity facilities for state FHAs around the country. His answer was: There's something about that on my desk and as soon as I get back I'm going to get to it. I know he was spoken to privately by several members, two of the HFA executive directors that were there requesting the need for that, and maybe something good will come out of it, who knows. We do need some good news.

MR. FLORES: Explain the role of the Comptroller and the Federal Home Loan.

MR. POGOR: Yes. Back in March 28, I think, a group of TDHCA, Mike Gerber, Kent, Joe Dalley and myself went up to the Federal Home Loan Bank in Dallas and met with them, and we asked them to take a look at providing liquidity for us. At that point we gave them some additional documents and asked them to continue doing their due diligence on that. October 23 or 24, I think, the Federal Home Loan Bank had a meeting where they approved liquidity or they were able to look at liquidity. That had be approved by Lockhart and his staff, so it's gone up the chain and now there's a time period where there's additional documentation we need to look at.

So we're hopeful that in the next several months that the Federal Home Loan Bank will be able to provide liquidity. I think we were one of the first ones there asking them, so hopefully that will be some help.

MR. FLORES: But that's their normal role. Right?

MR. POGOR: That's not the normal role for Dallas. The Federal Home Loan Bank in other areas, such as in Boston, Philadelphia, Pittsburgh, I think they do liquidity

MR. GERBER: I don't think so, because I think they've had requests made but they've been denied by the regulators, because several other HFAs have similar requests in like Seattle and Des Moines and I believe Boston as well. So I think we're kind of all collectively putting pressure to get them to take on this new role. Is that correct, Gary?

MR. MACHAK: Gary Machak, financial advisor to the Department. And the question was whether it's correct whether the other Federal Home Loan Banks are providing liquidity. There are a few that have provided liquidity in the past and they've committed lines to HFAs, Des Moines being one of them, Boston was another one, but this is a new program for Dallas. It's not that they said they're opposed to it or they've been opposed to it in the past, it's just a new business development for them, and they have received from their local board, I believe, an approval to go ahead and talk to their regulator to get approval, and we're expecting feedback from the regulator.

The other one -- if I may -- with regard to the Comptroller, the Comptroller has had a liquidity program, a small liquidity program by other standards, for over ten years that has remained the same size. With discussions that we've had with them, they are open to possibly increase that, and there's a lot going on at the Comptroller's Office. I've been involved with calls with them with the rating agencies, and they're waiting to hear back from the rating agencies to see how that may affect their overall credit. So that's another good possibility that we've been working on.

MR. FLORES: And I noticed that Matt, you're having weekly meetings with our financial advisors, so I'm assuming because the whole world is moving on a minute-by-minute basis you almost have to stay in touch with what everybody else is doing.

MR. POGOR: And that's a good point. We are having weekly meetings with Gary, some of our underwriters and we're looking at all kinds of different possibilities from fixing these variable rate bonds to fixed rate bonds. We're also putting pressure -- if you want to call it that -- on our underwriters. Some good news, Mr. Chairman, that's Piper Jaffrey has come through today and they have placed $13 million of bank bonds back out to the market. So by working with these re-marketing agents, Citi came back last week with $2 million, so hopefully we can start seeing some of these bank bonds go back out to the market but we're still needing to place our liquidity providers to get some movement.

MS. RAY: Mr. Chairman, and basically my comfort zone would be if we approve the staff recommendation we are delegating authority to our chairman and our executive director to make the adequate decisions.

MR. POGOR: Correct. I'm also working with Bank of America, I'm putting hands out on everything I can get hold of, whoever is out there I can hear that may have that may have possibility to provide liquidity, we're working them, trust me.

MS. RAY: I think the only name on your list that I probably -- based on what's been going on in the universe is when you see the name Fannie Mae, everybody gets a little bit concerned. But if we pass this recommendation, that's above my pay grade. Therefore, Mr. Chairman, I move staff's recommendation.

MR. CONINE: Motion to approve staff recommendation for 9(f).

MR. CARDENAS: Second.

MR. CONINE: There's a second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. Thank you, Matt.

MR. GERBER: Thanks, Matt.

MR. CONINE: Item 10.

MR. GERBER: Last item. Jeannie will walk us through the HOME Division amendments.

MS. ARELLANO: I'll try to make this one quick. Jeannie Arellano, director of the HOME Division

The City of Cleveland, Liberty County, and the City of Ames are each requesting an amendment to raise the maximum amount of assistance that can be provided to homeowners for the reconstruction of their homes to $75,000, $80,000 or $85,000, depending on family size. Their request was based on what the previous rule had in place. All three of these administrators were awarded contracts at the May 8 Board meeting. They were awarded funds, $500,000 in project funds and $10,000 in administrative funds, and they're required to assist seven households with incomes at or below 50 percent of the AMFI.

All three of administrators have cited the same reasons for requesting these amendments which is the increase of costs in the area, the cost of materials, equipment operations, along with costs of demolition cleanup have risen. And the administrators further indicate that the costs associated with closings, appraisals and surveys have also significantly increased.

HOME staff is recommending that all three administrators be allowed to amend their contracts and increase the maximum amount of assistance as outlined in the proposed HOME Program Rules that were presented and adopted by the Board today.

MS. RAY: Mr. Chairman, I move staff's recommendation.

MR. CONINE: Motion to approve. Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Jeannie, is this going to open the floodgate to increase all these amounts?

MS. ARELLANO: I suspect so, but one of the provisions that we put in the rules today was that you allow Mr. Gerber the authority to approve those administratively as they relate to adopting the new rule changes, and they have to adopt all of the new rules, not just a part of it.

MR. CONINE: And that gives me comfort how?

MS. ARELLANO: I'm not sure I can answer that question. It's consistent with what was approved in the rules today, the maximum amount of assistance that was approved in the rules today. And since that will typically be more than a 25 percent increase, we recommended that change so that they can be handled administratively by Mr. Gerber instead of having to bring each and every one of those before the Board. And it addresses the issue of the rising costs.

MR. CONINE: Is this similar to the disaster relief stuff we saw a minute ago where within the $75,000 there's a lot of demolition and soft costs that are included? Is that consistent?

MS. ARELLANO: Yes.

MR. CONINE: So if I'm looking at this, this would kind of parallel those numbers.

MS. ARELLANO: Yes.

MR. CONINE: Okay.

MS. ARELLANO: I can't say that it's exact but these maximums do not include the soft costs, and it sounds like what was approved today for the CDBG funds does include the soft costs, and just from looking at those amounts, I think that they'll compare.

MR. CONINE: Okay. Any other questions?

MS. ARELLANO: And these were for local disasters, these contracts were for local disasters.

MR. CONINE: I do have a couple of witness affirmations. Colby Dennison.

MS. ARELLANO: That's the next one.

MR. CONINE: I'm sorry, I'm ahead of my time once again.

MS. ARELLANO: I'm sorry, 10(a) is pulled.

(General discussion.)

MR. CONINE: Any further discussion.

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries. Can tell I'm getting tired.

MS. ARELLANO: I'm going to let Cameron Dorsey, Multifamily Program administrator, present this item.

MR. DORSEY: Good afternoon. The last component of this item is the amendment request for Contract Number 10000986, Creekside Villas Senior Village. On July 31, 2008, the Board approved a $1.2 million HOME award for Creekside Villas Senior Village, Application Number 08-253. The subject development is a proposed 144-unit elderly multifamily transaction, located in Buda, Hays County. The development also received a 9 percent Housing Tax Credit award of $1.2 million at the July 31 Board meeting.

On October 1 the applicant submitted a request for consideration for $299,017 in additional Housing Tax Credits for applications that received the 9 percent credits during the 2008 application cycle. The Board had directed staff to contemplate the additional credits and all those decisions were made earlier today.

In addition, as a second option, the applicant included a smaller request for Housing Tax Credits, and in conjunction, an increase in their HOME award from $1.2 million to $3 million which is the maximum under the NOFA and a decrease in the interest rate from the long term applicable federal rate to zero percent.

The applicant provided all of the pertinent documentation to support the request and staff considered this request in conjunction with the increase in the Housing Tax Credits as directed by the Board. Staff recommends approval of an increase in the current HOME Investment Partnerships Rental Housing Development Program award for Creekside Villas Senior Village for a total loan of $3 million, subject to the terms and conditions reflected in the addendum to the underwriting report and any additional evaluation required to ensure that the Board actions previously to get the 10 percent increase in costs and what-have-you to allow additional credits doesn't provide more funding than is necessary. So we'll run that gap calculation again just to ensure that we don't over subsidize the transaction.

Staff recommends that the increase in funds be awarded from the Department's available balance of de-obligated HOME funds as permitted in 10 TAC Section 1.19.

The only other thing I would note is that the applicant's syndication pricing dropped from 84 cents on a dollar to 77, and they had about a $2 million construction cost increase. The HOME rules allow for the Board to consider an amendment to the contract based on unusual circumstances, and obviously based on action earlier today, current economic environment would suggest that that's a unique circumstance.

MR. CONINE: Any questions? Colby?

MR. DENNISON: (From audience) I'm just here to answer questions.

MR. CONINE: Any questions? Do I hear a motion?

MS. BINGHAM: Mr. Chair, I'll move staff's recommendation to increase the amount to a total loan of $3 million with their gap analysis to ensure that it's not over-subsidized.

MR. CONINE: Motion by Ms. Bingham. Is there a second.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MR. FLORES: Mr. Chairman, what happened to the item on Iowa Park which was in my book?

MS. ARELLANO: It was an appeal that the administrator, the City of Iowa Park, asked to be heard at the December Board meeting, so it will be on the agenda for December.

MR. FLORES: Thank you.

MS. ARELLANO: If I may, would like to formally introduce Cameron Dorsey. He is for our HOME Division the Multifamily Program administrator. Some people would say that he was stolen from the Real Estate Analysis Division, but I think he ran from them. But I'm very happy to have him with our division and his responsibilities will include both HOME and Housing Trust Fund multifamily developments and single family developments.

MR. CONINE: Welcome aboard.

MR. DORSEY: Thank you.

MR. CONINE: Mr. Gerber, any Executive Director's report?

MR. GERBER: There's a list of outreach activities included in the back of your Board book. We thank the community at large. I know that several folks are going to heading off afterwards to bid Ms. Boston a fond farewell, so please join us for that, and thank you, Board, for your patience and the time you devoted to us today. It was long agenda.

MR. CONINE: I'd also like to echo my thanks to the Board for hanging in here today, this one has been tough one. And thanks to the staff. You guys have done a fabulous job working through all these issues that the United States Congress and others have thrown at us at the last minute. I think the citizens of Texas have been greatly served and I hope some of these tax credit projects will work nowadays.

MR. GERBER: Mr. Chairman, two folks are kind o the unsung heroes of these meetings -- there's really three: there's Nidia Hiroms and Michelle Atkins, and I don't know where Joe headed off to, and Annette is there as well, but they come in and they're here at about 6:30 in the morning of these meetings to make sure that they run really smoothly, and we don't thank them enough. And they put up with a lot of grief throughout the Board meeting and the days leading up to the Board meeting from al the rest of us who really count on them. So I just wanted to publicly thank them as well.

(Applause.)

MR. CONINE: We stand adjourned.

(Whereupon, at 5:05 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: November 13, 2008

I do hereby certify that the foregoing pages, numbers 1 through 306, 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.

11/20/2008
(Transcriber) (Date)

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