TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

9:00 a.m.
Friday, April 23, 2009

Ric Williamson Hearing Room
D.C. Greer Building
125 East 11th
Austin, Texas

MEMBERS PRESENT:

C. KENT CONINE, Chair
LESLIE BINGHAM-ESCAREÑO
TOM CARDENAS
TOM GANN
JUAN MUÑOZ
GLORIA RAY

STAFF PRESENT:

MICHAEL GERBER, Executive Director

AGENDA

P R O C E E D I N G S

MR. CONINE: Good morning. Welcome to the April meeting of the Board of the Texas Department for Housing and Community Affairs. We have got a few things on our agenda today. Thanks for everybody for being here. Let me see if I can call roll right quick. Leslie Bingham. Is she on the way? Does anybody know?

MR. GERBER: She is.

MR. CONINE: She is on the way. Okay. Tom Cardenas, on the way. Kent Conine is here. Tom Gann.

MR. GANN: Here.

MR. CONINE: Juan Munoz.

MR. MUNOZ: Here.

MR. CONINE: Gloria Ray.

MS. RAY: Here.

MR. CONINE: We have got enough present to get started. Most of you know, we have public comment at the beginning of our meetings. So any of you, as well as during the agenda items.

So any of you who want to speak to the Board on any particular subject, or on an agenda item, make sure you fill out the witness affirmation forms. Get them turned in. I have several already. But one last call before we actually get started. Let the record reflect that Tom Cardenas just walked in and joined us. Thank you very much. It is good to see you.

MR. CARDENAS: Good morning.

MR. CONINE: Most of you probably recognize that I called out a different name on one of Board members. We are glad to welcome Mr. Tom Gann to the Board. And with respect that, I am going to turn it over to Mike Gerber and let him lead us through the festivities.

MR. GERBER: Mr. Chairman and Board members and members of the housing community, good morning. It is a great pleasure to welcome Tom Gann to the governing board of TDHCA. Mr. Gann is President of Gann Medford Real Estate which is a full service brokerage firm in Lufkin. In addition, he is President of Tom Gann and Associates, which is a residential and commercial construction company.

He is the past director of the East Texas Mortgage Finance Corporation and a past Board member of the Angelina and Neches River Authority. He is also a former Chair of the Real Estate Center Advisory Committee at Texas A & M University, that this Department does extensive work with. And he also served previously as a member of the Texas strategic military planning Commission.

He served in the U.S. Army Reserves, received both bachelors and masters degrees from Baylor University. And brings just a wealth of experience in housing and real estate to TDHCA. And we are very honored to have Governor Perry appoint a person of such capability and skill.

Many of us on staff have had the privilege over the last couple of weeks of working with Mr. Gann as he gets up to speed on just a few of the issues that we in the housing community are working on. And we will take about eight hours to cover it today.

But the first order of business, Mr. Gann, is to of course, formally swear you in. And we have invited State Senator Robert Nichols who has spent much time in this building to come and administer the oath. And I would like to ask our governing board if they would go down, and serve as sort of a backdrop. We will get some pictures while Senator Nichols administers the oath to Mr. Gann.

MR. NICHOLS: Thank you very much. I spent 8-1/2 years behind that dais in this very room. And I would also like to say, it is a real honor to support Tom Gann in this. And it is an even greater honor today to have an opportunity to swear him in. He and I have been friends for a long time. And he helped me when I needed it.

And our relationship actually began, this is something you all need to know, well, maybe you don't need to know it. It actually began before we even knew each other. His father was a toy maker, toy sales, toy business. Woody's Toys. And his motto was, we don't work, we just play.

You are going to have a lot of fun. And the connection to our family is, my father was a toy maker. He made toys that Tom's father sold. So it is a real honor to me to -- so I am going to repeat the oath. I will say the oath and you repeat after me. Okay. Right hand up.

Whereupon, the oath was administered.)

MR. NICHOLS: Congratulations.

MR. GANN: Thank you.

(Applause and photos.)

MR. GERBER: Thank you again, Senator Nichols. And Mr. Chairman, we are also observing one other thing today, which is the

Department's participation in April as Fair Housing Month. We have a resolution that the Department is going to share and ask each Board member to sign.

Fair housing is more than just a responsibility. It is a duty and it is a call to all of us who are in housing. We have not seen the last of discrimination in housing, and lack of fair access to housing in our state. And all of have to be vigilant always on that score. And the Department takes that responsibility seriously.

And so as we observe Fair Housing Month, that date has been -- this month has been observed by the federal government. It is also being observed -- Governor Perry has issued a proclamation observing this month. And now, the Department will formally recognize that in a resolution as well.

And as we look to the year ahead, we also look to additional opportunities and documents and submissions that we make to the Department of Housing and Urban Development and to all of our funding agencies. And we look for information coming from each of our partners on ways that we are all affirmatively furthering fair housing.

It is an important objective to keep in the forefront of our minds as we look to improve housing conditions for low income Texans across our state. And so with that, Mr. Chairman, I will pass the resolution around and turn the floor back over to you.

MR. CONINE: Okay. Thank you, Mike. And obviously, Fair Housing Month is a very important aspect of what we do here at the TDHCA.

And we appreciate you putting that form. And we will get everybody up here to give it a whirl.

For those of you that recognize that Mr. Gann is replacing Sonny Flores. Sonny is out of the country for this particular meeting, and we will be recognizing his service to the Board at our May Board meeting. So again, we appreciate, Tom, you agreeing to serve. And we look forward to playing over at Crown Colony one day over in Lufkin. We will get that worked out. Probably have to talk some business over there, I am sure.

Okay. We will move on now to the public comment portion of our agenda. I have several witness affirmation forms here for individuals to speak. The first one is Steve Moore. Steve? Is he here?

(No response.)

MR. CONINE: I guess not. Mark Mayfield. I have got two for you Mark, on the same deal. Does that mean you want to talk twice as long, or what.

MR. MAYFIELD: Well, one is on -- no, sir. One is on Part Two. Park Ridge.

MR. CONINE: Park Ridge.

MR. MAYFIELD: Good morning, members of the Board and Mr. Gann, welcome. I have had down for public comment and also, on Item two, I really didn't know. I guess my comment would be -- again, I am Mark Mayfield with the Texas Housing Foundation.

I am speaking primarily on behalf of we have received a couple of forward commitments of '08 applications. One in Waco and one in Llano, Texas. We are concerned the most about the one in Llano, Texas. It is 08-181. I left Galveston very optimistic. This is a rural 9 percent deal.

Very optimistic that we were going to be able to work together and find a way to make that property come into fruition after three years of effort. And what I am concerned about more than anything, I didn't know where to put this on the agenda. That is why I am here at public comment, is the May 15 deadline is going to be before us.

And I don't know how that is going to work. But I am very concerned about how we can make that deal happen. Obviously, we will not be able to make that deal happen without the help of the money that came through the TCAP or the exchange program, one or the other. We have received our HOME commitment forward.

Everything is ready to push forward, other than the fact that being a rural housing deal, we just have not been able to bring an investor to the table. Not because we are not able to do it. I believe we have a good track record of developing property. The only problem that we have is, we do it in rural communities. And it is very difficult right now.

I guess I am more proud of the fact of what our property does five or ten years from now, and the service that it is going to bring to these communities. We are very proud of our public effort, as a public housing authority, and of our compliance and all that we do. And I just wanted to bring this issue before you.

I don't know -- I know that this Board has always been very capable of making things happen. And I put my trust in that to happen now, for this development in Llano. So that is really all I need to say.

MR. CONINE: Thank you, Mark. Any questions of the witness?

(No response.)

MR. CONINE: Okay. Chris Dischinger. Did I get that right? Close to it, anyway?

MR. DISCHINGER: Pretty close. Yes. I am Chris Dischinger with LDG Development. And I would just like to request that the Board consider transactions that have not closed yet, that may be eligible for TCAP money to be -- that have an investor. I have an '07 deal in Alvin, Texas.

And we would like to go ahead and close the deal with an investor, but yet still be available for TCAP money and not be precluded from being able to get some additional money to help. Because the deal has changed significantly from the time we signed on because of pricing and interest rates and whatnot. So that is my only comment. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: I appreciate it. Bob Sherman.

MR. SHERMAN: Good morning, Mr. Chairman.

MR. CONINE: Good morning

MR. SHERMAN: Ladies and gentlemen of the Board and members of the staff, Mr. Gerber. My name is Bob Sherman, and I represent the Redd Group Development Organization here today.

Mr. Klinefelter of the Redd Group and I are here today to introduce a cost saving method of providing affordable housing on an unincorporated section of land located in Hunt County, immediately east of Dallas, Texas, and still in the Dallas MSA. Mr. Klinefelter has some pass out material. You have got it already. I see.

The houses themselves are modular built in a plant in Decatur, Texas, not far of course, from our development site. Our entire development proposed is structured no differently than stick built single-family and duplex houses. Each will be located squarely on its own platted lot, in a housing subdivision so legally platted, and approved, complete with paved streets, curb and gutter, paved driveways and lawns.

Each will be on a concrete and steel foundation, constructed to both HUD and TDLR specifications. The entire subdivision will be owned just like any other development we do; by a developer. And all of the units will be leased and managed no differently than our traditional apartment or single-family rental properties. You have the photos now.

We have approached HUD with this concept at length. And we are told that HUD would provide the credit enhancement for this development. In fact, our approach to HUD also included a conventional 221(d)(4) loan that would be insured, just as I have done with them in the past. And so there seemed to be an acceptance by HUD for this program. They have done it in the past with others.

Their specifications are quite stringent, but we meet or exceed all of those, including a 30 to 40 year minimum life cycle. That was important to them, and to us. To reinforce our confidence in this method of construction, Mr. Klinefelter and I made an extensive tour of the manufacturer's facility in Decatur, a few months ago. We were impressed with the adherence to HUD specifications and the inspection by HUD on a regular basis, using one of their agencies.

Notwithstanding, the multiple quality control inspections within the plant itself. We were impressed with the number of times the units were inspected. Costs, and this is the big one. Costs are significantly lower than for example, applications submitted in the last 9 percent round.

Our unit costs are about 62,000 compared to costs well into the mid-70,000 range on those applications. On a 200 unit development, it translates roughly to 2.5 to $3 million less costs. We need however, some form of gap financing. And we know that is about to come to us. We understand the timing for that application follows the issuance of the tax credits and the bond commitment, of course.

One other cost saving feature of this development is, it has its own self-contained waste water system right on the site. I present this today in advance of a full bond and tax credit application. If there is any resistance to this method of construction, because it is not mentioned in the QAP, this method of construction cost saving, we need to hear it now. Because as you know, and I am acutely aware, applications are expensive and time consuming.

And these economic times are tough, but that just encourages the tough to get going. Going forward with this plan, I represent Mr. Klinefelter, an ex United States Marine Corps fighter pilot, and Harry James, son of the famous World War II era band leader, raised in Beaumont, I might add, and Phil Klegg, managing director of the Redd Group. Mr. Klinefelter and Mr. James are veterans themselves, and have approached their respective veterans organizations with this development plan, and were received very favorably.

The principles of the Redd Group have over 37 years of experience in land development and housing construction, and will develop the proposed community for us. Mr. Klinefelter will be the supervisor of that entire operation. The owner operator will be Aslan Development already approved by Texas Department of Housing and operating in several states as a tax credit developer.

And it is our intention without limiting the rights of all who come to us as potential tenants to make special efforts to attract veterans and their families. Redd Group is negotiating for exercise therapy facilities on site and van trips to VA and DART facilities in the vicinity just for starters. They have already been knocking on the doors, and well received.

Hunt County is well known for its support of the military. It is the birthplace of Audie Murphy. His statue is the first thing you notice at the Hunt County Courthouse. We believe this development will be well received there.

And one last point I would like to make, is the commitment by the Redd Group owners who have carefully planned this development. You can see some of the plans in the material you have. And the pre-engineering plans are complete right now for it. There is a few more engineering drawings that have to be prepared, but it is ready to go.

And I guess finally, it has been my pleasure to represent such people, and especially getting to know them over the past year. And I have to tell you this, after all, who gets to meet Harry James and see the twinkle in his eye, when he tells you that his step mother was Betty Grable. These people are well known. They are good people.

And I am just looking today for an indication that although this isn't in the QAP, it is certainly a step forward, a major cost saving, and I would ask you to consider it. Do you have any questions of me?

MR. CONINE: Any questions of Mr. Sherman?

(No response.)

MR. CONINE: I presume you have been visiting with staff?

MR. SHERMAN: Yes, we have.

MR. CONINE: And getting some initial feedback from them?

MR. SHERMAN: Yes. And we have updated specifications, since we talked to the staff. We have talked to Robbye Meyer and her group.

MR. CONINE: How many units in the first phase?

MR. SHERMAN: We are looking at about 200 units. It all depends there, again on the ability to raise the tax credit dollars, as you know. That whole industry out there right now is in a tough spot.

MR. CONINE: Really.

MR. SHERMAN: We all know it. We know it. We feel it every day. This is something that I think might change the way affordable housing is presented in these tough times.

MR. CONINE: Okay. Thank you for your testimony. Appreciate it.

MR. SHERMAN: Thank you very much.

MR. CONINE: Oh, yes. Dr. Munoz. Yes, sir.

MR. MUNOZ: You implied that it was your understanding from HUD that they would be favorable or supportive. Is there anything more definitive than those conclusions? Did they provide any statements in writing?

MR. SHERMAN: No. We didn't ask them to. Both Harry James and I went to visit with Ken Byrd, who is a very senior member in the Fort Worth division of that organization. And I have known Ken for years. And he said, look. He said, we have done this sort of thing before. He said, we don't want a whole bunch of units built all at once.

But we have done it before. And that is where the 50 to 40 year life cycle came in. And so I have done a number of loans with HUD where I have been the principal. And I am no stranger to them. And I was satisfied with their response to me.

MR. MUNOZ: Very well.

MR. SHERMAN: Other questions?

MR. CONINE: Okay. Thank you.

MR. SHERMAN: Thank you very much.

MR. CONINE: Appreciate it. Tama Shaw?

(No audible response.)

MR. CONINE: What did she say?

MS. SHAW: I'm going to speak later.

MR. CONINE: Which agenda item is that? Does anybody know? Weatherization deal?

MR. GERBER: Three A.

MR. CONINE: We'll put you in the 3A column. Tony Sisk.

MR. SISK: Tony Sisk, Churchill Residential, Irving, Texas. Mr. Chairman and Board. I just had some general comments. As you know, there are some pretty big decisions that staff and Board that will need to be made over the next several weeks with regard to the use of TCAP and TCEP funds.

And I just wanted to encourage staff and Board to at this time when decisions are made, some of which allocate money for extended periods of time, that we consider whether or not each particular transaction has investors lined up and which ones have the maximum amount they can pay, so that we can leverage the amount of the TCAP and the TCEP funds to get as many deals closed as possible. We also have other traditional forms of soft financing, such as home loans that have been used in the gap financing of multifamily deals and there are several applications.

I noticed out there that are able to close with traditional underwriting of HOME funds being able to pay back that debt, as well as having investors that are lined up to put up the equity in that particular transaction. Because it is investors -- the few investors that are out there right now, are very specific about which locations they go to. And if we can make decisions and get deals that can close more quickly out of the way, and not tie up funds for extended periods of time, it will just help us recycle through this, and be more effective in getting more deals closed, I believe. Thank you.

MR. CONINE: Thank you. Let the record reflect Ms. Bingham got here. Thank you. Good to see you.

MS. BINGHAM-ESCAREÑO: Thank you, Mr. Chair.

MR. CONINE: Robert Ruzicka.

MR. RUZICKA: Good morning Mr. Chairman, ladies and gentlemen of the Board.

MR. CONINE: Good morning.

MR. RUZICKA: Thank you for the opportunity to speak to you today. I am here to address the concerns I have for project 09-166, Goldshire Townhomes in Sugarland, Texas. My name is Bob Ruzicka. I am a resident of Summerfield subdivision which is just southwest of the property at issue. I am also a local businessman in the area.

Let me first state that I do not want my remark to be misconstrued that I am against quality affordable convenient housing for people who are of low income. I think that it is important that the community provide options for its residents to take care of themselves. I just believe that the developer in this case has not made sufficient provision for certain items, and that their application for this government assistance should be denied. Let me tell you why.

Several issues are involved in the building of this project, aside from the units themselves; drainage and utilities. The county will require a detention pond. Water and sewer service will be required. The property is not in a MUD district right now. An official of MUD 41, which is nearby has told me that they do not have sufficient capacity to serve this property.

Also I spoke to the MUD 25 general manager, Mary Hayes, who told that due to the fact that it is outside of the boundaries of the district, and their obligations to take care of the needs of their current customers and future growth, they would not be able to service the area. MUD 25 is on the opposite side of the property from MUD 41. In order for a MUD to serve this property, a new lift station would be required. She says that that would cost about $500,000.

In addition, lines would have to be laid for sewer and water service. This would involve boring under county roads and laying pipe for a long distance. Given that the developer would not be paying MUD taxes, excuse me, the return on this investment would be marginal at best; likely over 25 years, according to Mary. This would not be an attractive investment for the MUD. It is my understanding that without water and sewer service, no electrical service can be provided.

The developer seems to have a problem acquiring utilities. The property in question is just over ten acres, 150 units at approximately 1,250 square feet per unit, plus streets of 28 feet wide and 5,600 feet long works out to 344,300 square feet. That converts to 7.9 acres. That leaves about 3 acres for the amenities building, parking access, common areas, a detention pond and a spray field, if that comes into play.

It has been reported to us that the developer will be required to build a detention pond with a capacity of 9 1/4 acre feet. That will require at least 1 acre of land. All of this will have to come out of the three acres. Obviously, they need water, sewer and electrical services to have a functioning development.

Common sense tells me that there is not enough room on this plot of land for a project of this size. Again, I recognize the need for this type of project. I just think the developer has not allowed for the basic utility service and should find a more suitable location. Thank you very much.

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: Donald Dobesh, Jr. There we go. I didn't see that J, it looked like an O. I apologize for that.

MR. DOBESH: That is okay. Good morning. My name is Don Dobesh. Today, I am representing the Village of Oak Lake subdivision. I am a director on the VOL HOA Board. And I am here to oppose project 09-166, Goldshire Properties development on Old Richmond Road. I want to thank the TDHCA for having this hearing today to accept public comments.

This is my second meeting, having appeared at the local meeting held in Houston on April 13. I and our community as a whole were impressed by the level of attentiveness to our concerns.

There are several points I want to make concerning the location of the proposed housing complex to be built by Goldshire Properties on Old Richmond Road which is in the heart of our subdivision. The first point concerns the issues of ingress and egress to the complex. Old Richmond Road is a very narrow curved street with no shoulders and very steep banks to either side. I have included two pictures with my presentation that illustrate the curve, the steep banks, and the width of the street.

On both pictures, I have circled the location of the sign that marks the proposed location of the complex. This location poses a safety hazard to the potential residents for the following reasons. One, in case of emergency, fire trucks will have a difficult time negotiating the turn into the complex from a narrow street, into a narrow driveway of only 28 feet width.

And number two, vehicles entering and leaving the complex will have to be aware of traffic coming around this sharp curve in the street, sometimes many times higher than posted speeds, which on the curve, are 25 miles per hour. Number three school busses should not be stopped at this location to pick up and drop off. The potential for mishap on this curve for a bus and or child is going to be large.

Number four, if the location for this complex is too close to the schools, children will have to walk to school if they can't be driven. There are no sidewalks or shoulders. They will have to cross at Old Richmond Road and West Airport, which is a four way stop in order to get to the school or schools. This is a dangerous intersection where I have routinely seen people running the stop signs.

Number five, the ditch to either side is very steep with no shoulder. In the first picture, picture one, I am standing in the ditch to give an illustration of its depth. And just let me clarify, it is not a picture of me in the ditch obviously. I am trying to give you my eye level of seeing where I am, versus the road height. And I am six foot four inches tall. And I am just above being even with that road surface from that perspective.

As a 16 year resident of Village of Oak Lake, I can tell you that I routinely avoid this road to minimize a chance of mishap to myself, my family, or to others. I would never move my family to a location on this street under any circumstances.

My second point involves the lack of water and sewer service to this complex. The first time I appeared in front of the TDHCA, I stated that MUD 31, 25 and 119 would not be providing service, since this area is outside their service district, and they are already under strain to provide service to their current customer base. They also need to move from well water to surface water by 2012. To that list, I now add Village of Meadows and Southwest Water Company.

MR. CONINE: I need to ask you to wrap it up, if you could, please sir.

MR. DOBESH: Okay. These points have been covered by Bob Ruzicka, so I will move on from the MUD district. The last point is actually a different view that should be given serious consideration, especially given the upcoming date of June 1. Hurricane season is once again, upon us. And I can tell you through personal experience, that Hurricane Ike was more than most people in our area expected.

Hundreds of homes in our subdivision were damaged and many are still in disrepair, even eight months later. I am going to kind of skip over a little bit here, to get this in, in time for you. But the point is, we were without electricity and basic services for nine days during that period of time. Given that the funds allocated for projects such as Goldshires Development are from an Ike recovery plan, I think it would be a good idea for TDHCA to consider how wise it would be to build this complex in an area that sustained a large amount of damage and had reduced services for a prolonged period of time.

Given the nature of the proposed residents income levels, hurricane preparedness is probably low on the list of priorities. Who will be stepping up to fill the inevitable need when it rises again. Again, I am skipping ahead.

Given a proper location, this is one item you will not have to consider. The complex should be further inland, away from the most dire effects of hurricanes. It takes a disproportionate toll on those least able to recover. And put in an area that can provide the necessary services and a safe environment.

The residents of our area recognize the need for affordable housing. Old Richmond Road is far from a reasonable location to provide this service. I am sorry if I went over the time.

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

(No response.)

MR. CONINE: Thank you.

MR. DOBESH: Thank you.

MR. CONINE: We will remind those of you that we have a three minute time limit, unless someone gives you some time. Then you get five minutes. So let's try to stick to it, if we could. Loree Conrad.

MS. CONRAD: Hi. I would like to thank you for the opportunity to get to come here today. My name is Loree Conrad. I am a 13 year resident of Village of Oak Lake. I am speaking about the same development that the two gentlemen before me spoke about. Goldshire Townhomes, their application number is 09-1666.

You know, and I too am not opposed to affordable housing. But I think this is an extremely poor location to put residents of an affordable housing complex in. We are in an unincorporated part of the county. There is no public transportation. According to our Precinct 4 Commissioner James Patterson, there will be no -- we will never be annexed, because we really lack a commercial tax base to make it feasible for them. So chances are, we will always be in an unincorporated part of the county without public transportation.

There is not even a taxi service anywhere nearby. My concern is that the only grocery store, bank, drug store, anything of that nature, is across Highway 6, which at that point, where you would cross, is eight lanes. It is very dangerous. I have lived there 13 years. I would never consider crossing that on foot.

I know a lot of people in a low income housing, they may have one car, but that car may go to work. So as my neighbor who is a manager for low income housing units says, there is often a tremendous amount of foot traffic. So I would be very concerned for people that had to navigate those deep ditches and no shoulders on Old Richmond and attempt to cross Highway 6. As a matter of fact, my neighbor's son was hit and almost killed on that road, and had to be life flighted with a severe head injury.

So it is just a very poor location. The speed limit is 50 miles an hour along there, and there are routinely accidents.

My other concern is the severe strain that it is going to put on our schools. Our schools are already quite overcrowded. All three of the schools that supply that area, there is Oyster Creek Elementary, Macario Garcia Middle School, and Stephen F. Austin High School. They are all currently overpopulated with temporary outbuildings.

And with the increase in temporary outbuildings, as we just observed this -- a couple of Fridays ago, when we had very severe thunderstorms and tornado warnings and they had to evacuate, it is very difficult getting a large number of children in severe weather inside. So I would -- you know, it already serves. I can read you all of the subdivisions that we currently serve in these schools.

There is Village of Oak Lakes, Summerfield, Stratford Park, Orchard Lakes. There is numerous. You know, any further building is going to put a severe strain on our already stressed school, local schools. I just feel like it is just a very poor location for a low income housing unit, because it really strands the residents.

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

(No response.)

MR. CONINE: Thank you very much for your testimony. Jeff Crozier. Probably wants to talk about urban problems.

MR. CROZIER: Actually, I will be very brief this morning. I am just here in my capacity as Executive Director this morning of the Rural Rental

Housing Association. I would just like to present our comments to the Board about the ARRA policy that is going to be -- that is currently being drafted by the staff.

And just basically reiterate that rural development, as you heard from Mr. Mayfield and some of the others earlier, rural development is very hard right now. And we applaud the direction that was given the staff last month in Galveston about not only giving rural a good look see and a good scrubbing when you are actually going through this policy. But also we want to make sure that the maximization of these funds is used and that doesn't necessarily mean just totally gap financing for some of these properties that are unable to get tax credits.

Some of these TCAP or exchange funds may be needed to fund the entire equity piece. And as long as the Department is open to that, gives the flexibility to the program to allow that to help as many people as possibly can, that is our true mission today, is just to reiterate to you guys that we appreciate the direction that was given the staff last month. And we hope that -- and with that, good evening. I enjoyed being here. That'll cut the three minutes off. Anyway, that is all I needed.

MR. CONINE: A lot of people think you are in the dark, anyway.

MR. CROZIER: That is right. Thank you all very much and have a great meeting.

MR. CONINE: Thanks, Jeff. Yes, Dr. Munoz. Jeff, hang on.

MR. MUNOZ: No, not Jeff. I wanted to make a point of some of the comments. I should have raised my hand sooner, for the people that were -- for the three public comments from the Village of Oak Lake subdivision. I just want to say to the three of you that came up and shared your comments, may I very quickly.

MR. CONINE: Feel free.

MR. MUNOZ: I don't know what the outcome will be. But I just wanted to say how much I appreciate just the deliberate and cogent sort of concerns. I thought that they were reasonable. And these applications, certainly, no one is going to cover the difficulty of moving children into a school under inclement weather.

That is not something that is going to be captured in an application. And if citizens don't come here and communicate that personally, I don't think that that kind of nuance would be realized by myself. I live in Lubbock, and we have tornado warnings. And it is difficult.

And we had an incident just last week. And so unless you sort of are here to say that, we may not -- certainly, if you are not from that kind of area -- appreciate what the additional number of students might present in that kind of difficult circumstance. So I don't know what the outcome is, but I know that your being here better informs our decisions.

MR. CONINE: Thank you, Dr. Munoz. Any further comments?

(No response.)

MR. CONINE: Barry Kahn.

MR. KAHN: Good morning. Mr. Chairman, welcome Mr. Gann, Board members. My name is Barry Kahn. I am a developer in Houston, Texas. And I would just like to make a couple of brief comments. First, some thoughts during this application round. One, several of us have been working to try to get a bill with the Legislature to do proportionate allocations.

As it is, there is a $2 million cap per developer. And there is nothing in the statute that anyone has found, that I have spoken to, that says the Department cannot do proportioned allocations. And I am not suggesting that this be done up front. But there is going to be a number of people who unfortunately will have issues who do get allocations who will have trouble finding investors, because of the financial strength or whatever, and may need the help of others who can help them get the deal done.

So I would like to suggest that the Department staff check with counsel, and look at perhaps developing some rules, if this new statute doesn't make it through the Legislature, where proportioned allocations would be appropriate with respect to different developers. Secondly, last year, the Department requested a letter, an allocation from lenders. There was really no direction given to the lenders.

And I have spoken with a number of them. And I would suggest that the Department meet with various lenders on trying to come up with some guidance. There has been various thoughts thrown around that the Department, Board is frustrated with the weakness of the letters received, both in application and allocation. At application, it is very hard because the lenders get lots of requests.

And with the syndicators really having to turn around and sell the deals they try to commit to do, any type of quick timing is very difficult from their perspective. So what my suggestion would be is for the Department to look at giving some guidance to lenders, and maybe requesting a commitment within 60 days after allocation. I have spoken with a number of lenders, and they feel this is relatively feasible.

Of course, there would be some subject to's. But in effect, the preliminary list of allocations is published 90 days in advance. I mean, 30 days in advance of allocation. So you really have 90 days to underwrite the deal, and could come up with the commitment. The commitment fee would then be due at that time, because people wouldn't want to pay a commitment fee and then not be able to deliver with their lenders.

But the lenders are getting to be very tough. Many are requiring payment and performance bonds which are very difficult to get in this environment or a 15 percent letter of credit or cash deposit. Many people cannot come up with that. And they will have to joint venture with others in order to meet the lender requirements.

But I think it is imperative that the Department find out who can or cannot deliver prior to year end, so the deals can be reallocated if necessary. And I am happy to answer any questions.

MR. CONINE: Any questions of Mr. Kahn?

(No response.)

MR. CONINE: Thank you for your testimony. Rick Deyoe.

MR. KAHN: Thank you.

MR. DEYOE: Hello. My name is Rick Deyoe. I am President of RealTex Development Corporation. I want to thank the Chairman and members of the Board for allowing me to speak. I am speaking to you about a forward commitment that we received last November. It is for TDHCA 09-019, the Timber Village II Apartments.

This project, as I mentioned, received a forward commitment in November of last year. And the commitment was subject to the project closing, being underwritten and closing by May 15 of this year, which is approximately three weeks away. Unfortunately, the underwriting on this project didn't occur, and us receive a commitment until April 3, which was 2 ½ weeks ago.

As you all, I am sure, are well aware, in today's financial climate, investors are unable to commit their resources to underwriting until such time as an actual commitment letter has been received by the applicant. Once we received our commitment letter, we did move forward with the development. We do have, and I have given you a copy of the project, the letter from an investor that is interested in moving forward with us on a direct placement.

So we don't have to wait for a syndicator to move forward with a syndication fund. The direct investor is willing to do both the debt and the equity. However, they need time to underwrite the transaction. This project is also in the Hurricane Ike area. We would also, we have received a City Resolution from the City of Marshall that states that they would like to see this project happen, and they give us their support in allowing us to go forward, to make a request for HOME funds, or TCAP or exchange funds to fill any gap that might happen once the underwriting is completed by the investor.

So my plea to you today is to request that we be able to allow for a further continuance of this project, so we can complete the underwriting. This is a good solid project. As I mentioned, it is Phase Two of an existing project. Phase One is 100 percent occupied, and we have 200 people on a waiting list. So that gives you a sense of the need.

The Housing Authority is in full support of our development. We have got project based vouchers in our Phase One. And we work hand in hand with the Housing Authority for this development. The fact that we received our commitment letter on April 3, which was about 2 ½ weeks ago doesn't allow us enough time under the normal circumstances to complete, get an investor involved, get our plans and specifications done, building permits in hand.

And certainly under these current economic times, it is impossible for us to be able to meet that May 15 deadline. And so I would request that you take that into consideration and grant us some additional time in this particular circumstance. This is a good project. We think the project will be successful.

But we are continuing to move the project forward. We just haven't have enough time since we received our commitment to get our investor involved.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much. Appreciate it. Ike Monty.

MR. MONTY: Good morning, Chairman.

MR. CONINE: Good morning. How are you doing?

MR. MONTY: Ladies and gentlemen of the Board and Mr. Gann, welcome. And good morning to the staff. I am Ike Monty, President of Investment Builders from El Paso. I am here to ask the Board to extend the closing deadline for the 2008 tax credit applications that received 2009 forward commitments off the waiting list.

We have a development, Desert Villas in this category. We have been working on this development for over a year now. Recently, the City of El Paso has committed to provide a waiver of impact fees and additional assistance to this project. The City's commitment is part of a citywide effort to recognize the monumental influx of personnel from Fort Bliss our military base. It is having a serious impact on the availability of affordable housing in our city.

A recent article in the El Paso Times indicates there is a need for 8,000 more multifamily units. When the Board awarded the forward commitments in November, it seemed reasonable to require the developers to close on the financing within six months. However, underwriting on these applications was not completed until a few weeks ago. Until that was done, developers found it difficult to generate interest in these projects.

In fact, my project, Desert Villas has underwriting issues that remain unresolved and you will hear it later at a different agenda item. As we are all struggling to find ways to get affordable housing on the ground, and this Board is trying to prioritize competing interests, I submit that we should prioritize the projects that can be completed in the easiest and quickest manner.

That is why giving an extension to these projects with a 2009 forward commitments makes sense. It saves staff time by allocating credits to applications that have already been processed and scored. It saves the developers time from resubmitting in 2010. It also saves the developers money. Our project, we have spent over $100,000 on the application process that was started last year. That doesn't include any staff time. $23,000 of that was spent since the forward commitment was awarded.

Again, this allows us to get units on the ground faster, because much of the development process is already completed. For these reasons, we ask the Board to do whatever is necessary to give the 2009 forward commitments a chance to succeed. Please consider extending the closing deadline so that Desert Villas in El Paso can go forward.

We have tremendous support for the development. We have a letter here from one of the aldermen. And we also have a letter from the Mayor that will be submitted later. And of course, we have to resolve our underwriting issues at a later agenda item. So thank you very much. Thanks for the time.

MR. CONINE: Thank you.

MR. CARDENAS: I have got a question, Mr. Chairman.

MR. CONINE: There is a question. Mr. Cardenas.

MR. CARDENAS: How much time would you estimate that you would need for your particular project, Mr. Monty?

MR. MONTY: Mr. Cardenas, I think that the real issues that is out there is that obviously some of these developments need the additional funding. I am embarrassed to say that I can't. I know there is two sources of funding. I know they are abbreviated. And I haven't memorized the extra money. But it seems like that would be -- it is kind of a chicken and the egg. But I would say July would be a safe date.

MR. CONINE: Any other questions of the witness?

MR. MONTY: Thanks for the time.

MR. CONINE: Thank you. Appreciate it. State Representative Jose Menendez.

MR. MENENDEZ: Thank you, Mr. Chairman and members. My name is Jose Menendez. I am from San Antonio. And first of all, I want to take the opportunity. I know that one of my colleagues, Madam Chair Davis has been here earlier.

I also want to chime in my appreciation for everything that you and this Agency does, for housing in this state. And I know that your heart and your commitment is there, to do even more. And so I want to first of all, thank you for your service to Texas.

Number two, I want to talk, sort of -- I was talking to my good friend, my colleague Ruth Jones McClendon. And she is in a committee. She is on the Transportation Committee currently, and couldn't be here. But we in San Antonio are full, 100 percent in support of one of the applications that is here before you for an appeal. And as I was listening to the gentleman who was testifying, I would want to thank you for the creativity that the Chair and the Board came up with to do the '09 forwards.

And I hope that the Board and the staff can see fit to continue in that spirit. Because I know that there are a few applications that are ready to close. There are just a few issues outstanding with all the turbulence in the credit market that is occurring, that I think that some of these applications need just a little time, some may a little tweaks here and there. And I believe that everybody understands.

But the need for housing is greater than ever. As I talk to all of the affordable housing providers in San Antonio, they tell me that their traffic is increasing, that more and more people that are coming through are coming in because they have been foreclosed upon, and so the need for an affordable housing solution for families is ever present.

And as I remember the story that I have heard my good friend Gloria Ray tell on many occasions about her need for affordable housing and her first home, and how it meant so much to her and her family, I just happen to know and believe in my heart that you all will make the decision what is best to help Texas get more housing on the floor. And so I am here just to ask you, to thank you and to ask you if you could have as much flexibility as possible to let these good applications close. And that is about it. Thank you.

MR. CONINE: We are trying to be as creative as we humanly can, under these circumstances. We appreciate all your efforts to help us out. Any other questions of the witness?

MR. MENENDEZ: Thank you. And I don't if you had any chance to do any Fiesta. Someone said to me, Happy Fiesta, and I said, where?

MS. RAY: There's always time to get to Fiesta.

MR. MENENDEZ: Yes. I need to get down. I need to get out of the pink building across the street. Well, thank you all so much. And if there are any questions that me or my staff can help with, we look forward to continuing to work with the Board and the staff. We think things are going great. And we look forward to continuing to work with you.

MR. CONINE: Representative Menendez, until you can get a bill passed to keep you from having to do that, if you would autograph a witness affirmation form on the way out, I would appreciate it.

MR. MENENDEZ: I am ready to do it.

MR. CONINE: Thank you. Keep me out of trouble with the General Counsel. Paul Holden. Okay. I am sorry. I see that. Robert Davidson. I apologize. Five minutes.

MR. DAVIDSON: Good morning.

MR. CONINE: Good morning.

MR. DAVIDSON: my name is Bob Davidson. I am with Zimmerman Properties in Springfield, Missouri. I am here to discuss Brownfield, Cedar Street Apartments TDHCA 08-112/09-006. This development is also a 2009 forward commitment that was allocated in November of 2008.

As you are very well aware of, the forward commitment was subject to final closing of the financing by May 15 of 2009. We respectfully request that the Board authorize an extension from the May 15 deadline to allow this development and other several ready projects to participate in the federal stimulus plan.

A little background about our company. Zimmerman properties and our principals have successfully developed more than 90 tax credit developments in eight states, including 11 within the State of Texas. We have closed equity partnerships with national syndication companies and several direct investors. We have always had access to capital to close transactions. We are in good standing with all of the housing agencies, lenders and investors.

Yet, without this needed gap financing, we simply cannot move our deals forward in 2009. We have marketed the Cedar Street Development, along with the pool of four other tax credit developments that we are involved in, which in total access more than $23 million of federal tax credits to more than 50 federal investor groups. We have substantial interest in the Cedar Street development. However, the pricing is more in the neighborhood of 65 cents, which will create a funding gap, and we cannot close at this point in time. Like many other people who have spoken, we did receive the forward commitment. We received it on March 31 of 2009. We accepted it, returned it to TDHCA with the $25,000 reservation fee. And the commitment does require final closing by May 15, which is 45 days from the issuance of the commitment.

Under normal times, that would be very difficult to process. Under today's circumstances, that is virtually impossible. The November of 2008 Board meeting authorized the issuance of 2009 forward commitments on the fundable deals, subject to underwriting. We did go through the underwriting process. We submitted last November an equity commitment from Raymond James tax credit fund at 73 cents.

However, they cannot close on that right now, because they do not have an investor for their fund. And so they are simply not able to participate with us. We also as part of our application, submitted a permanent loan commitment from Lancaster Pollard Mortgage Corporation under the USDA Section 538 loan program with an interest rate subsidy.

And in February when the stimulus bill was approved, it is also our understanding that the federal government eliminated the interest rate subsidy for the USDA 538 program this year. So we have kind of a double whammy on us right now. We have lost equity pricing and we have lost our interest rate subsidy. However, we have continued to move forward with the development.

We have been working on this for more than two years. We have the architectural engineering plans done, all the due diligence items done. We spent more than $100,000 on the development and we are really shovel ready, if we can find a creative way of bridging the financing gap.

As you are well aware the equity market has continued to deteriorate. Syndication firms simply will not close transactions until they have the investor lined up. No one is putting on bridge lines anymore. And we cannot close until we find a funding gap. The stimulus plan clearly provided provisions to financially assist stalled tax credit developments.

We certainly feel like ours as well as the other 2009 commitments fall into that bracket. The TCAP money where 2.25 billion especially allocated HOME funds will be distributed. It is our understanding that Texas is going to receive about $148 million of the TCAP funds. However, we also understand that there is a lot of negotiation still within the federal government before those plans are fully rolled out and implemented.

And all that we are asking for us that the Board and staff give us, as well as the other 2009 forward commitments an opportunity to participate in those funds and the underwriting of them. From our knowledge in talking to equity investors across the country, virtually no equity closings have happened in the last 90 days across the country. Maybe a handful of them in select markets.

But everybody is kind of waiting on the TCAP funds to come out. And we strongly feel that preference should be given to properties that are shovel ready where we have architectural plans submitted. Everything is done. And we can actually get back to work, get to development, not only to provide the affordable housing that is needed, but also to put people in Texas back to work in the construction industry; the suppliers, the builders and the laborers.

As we discussed the loss of the interest rate subsidy under the USDA 538 program, it has also financially impacted our project. We believe there is current legislation that might fix that, however that might take a few months. But without that being fixed, we would also lose about $300,000 of permanent loan proceeds. Wrapping up, we think we need about $600,000 of TCAP funds and all we are asking for is the Board give us the opportunity to participate in the underwriting and allocation process of the TCAP funds. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Walter Moreau.

MR. MOREAU: I am Walter Moreau, the Director of Foundation Communities. We are a non-profit based here in Austin. We have a 20 year track record of housing and services and green building. Our mission is to create really high quality housing and services so that families can be successful.

We are really excited about our tax credit application this year. We only apply every three or four years. And it is M Station, it is 09-130. And we really think that it is a model, and has a lot of features that unfortunately they don't score in the QAP process. So I wanted to come and tell you a little bit about the project.

Right now in our region there are four projects. We are tied for third. There might be money for one or two. The scoring and underwriting is ongoing, so we don't know where we will end up. Maybe we will be back in May or June and hoping for a forward commitment. But we think it is the kind of project that is a showcase. The location is right across the street from the new train station, the Capitol Metro, Metro Rail on MLK and Manor. So it is part of a transit oriented development. We think that is great, not just for affordable rents, but to give people options for affordable transportation. It is on great bus lines; Boggy Creek Hike and Bike Trail, the Lance Armstrong

Bikeway and the future Manor Streetcar.

We are building an onsite child care center with Open Door Preschool. And in addition to our learning center for kids, and their after school program. Kids can walk to Campbell Elementary School, which is an exemplary rated school. Which to me, is phenomenal, that parents can take their kids, walk them to such a great school. Across the street, the Austin Children's Museum is building their new science workshop and Annex.

The Sustainable Food Center is building their headquarters and teaching kitchen with a two acre community garden. And People Fund is building their small business incubator center which will all be services our families can take advantage of. Ten percent of the units will be for families that have been homeless with supportive services. Part of our Children's Home Initiative program, which really is kind of the crisis need in Austin right now. But it is not 100 percent supportive, so it doesn't score those points.

We have support from five engaged Austin neighborhood associations. We are in their boundaries and around us, and I am very proud of that. They could check out our track record locally, and came out and actually supported us.

We are aiming for Lead Gold. We want to build at a very green level to keep utility bills down, with a very family friendly design that has flex space for storage and for study. We are on the Boggy Creek Green Belt so that there is natural areas for kids to play, and outdoor fitness.

And last but not least, this is the exact kind of project that investors are still showing a lot of interest in. It is Austin. It has a strong sponsor. It is a TOD, because of the train station. It is a high level of green. We have three direct investors that are very anxious to work with us. Lots of these features don't score.

We are hopeful that we will still end up in the running. We appreciate the Board and the staff, and interest in doing really high level model showcased kinds of projects. Thank you for supporting us in the past. And we are excited about this new project. Thanks.

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

(No response.)

MR. CONINE: Madison Sloan.

MS. SLOAN: Good morning.

MR. CONINE: Good morning.

MS. SLOAN: I am Madison Sloan with Texas Appleseed. We are a non-profit public interest law center. And one of the issues we have worked on since Hurricanes Katrina and Rita is disaster recovery, and particularly disaster housing recovery. And I am here particularly today to support item 4D on your agenda which is to formalize a policy regarding documentation of ownership for community involvement block grant disaster recovery.

This has been a huge issue in CDBG programs across the Gulf Coast. Texas is no exception. It is something that the Department and people across the state have been working on for a while. Low income households and communities are more apt to own property in a way that does not lend itself to showing clear title. These are also the communities that are not only most affected by disaster but they are particularly the people that Community Development Block Grants are intended to benefit.

And I think just to sort of throw out one number which really illustrates the problem, in Round One of the Rita homeowner assistance program, Southeast Texas Regional Planning Commission reported that between 60 and 70 percent of applications had some kind of title issue. And this is the same area that is being hit, was hit again by Hurricane Ike. So we are going to see these again.

So we need to remove this barrier, not only to get the Rita money flowing, but to present the same issues from happening with the Ike program. You know, we think this is a good policy that provides reasonable safeguards for everyone involved, and most importantly, is going to prioritize rebuilding housing and keeping these homes in the Texas housing stock. Thank you.

MR. CONINE: We need your help down there. Appreciate you testifying. Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much. That concludes the public comment that I have for this portion of the agenda. Again, we have some more public comment for the specific agenda items as we follow up.

I would like to take a second if I could to recognize Brian Owens out of the Governor's Office. Good to see you here today. Thanks for being with us. We will move on to the Consent Agenda for the Board. As you can see, we have items one through E. Mr. Gerber, any comments?

MR. GERBER: No, sir. We would ask for approval.

MR. CONINE: Can I get a motion to approve the items on the Consent Agenda?

MR. CARDENAS: So moved.

MR. CONINE: Motion by Mr. Cardenas.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 2A, Mr. Gerber.

MR. GERBER: Mr. Chairman and Board members, Item 2A provides a status update on the funds that the Department anticipates that it will be administering under the American Recovery and Reinvestment Act of 2009 also known as ARRA. These are the stimulus funds that have been much talked about.

There are seven ARRA areas that the Agency is involved in, and these programs require not only program administration but significant oversight and reporting responsibilities. Last week, I directed that a reorganization take effect that was designed to enhance the Department's ability to handle all the program responsibilities including ARRA and disaster recovery effectively.

This reorganization creates an office of ARRA accountability, oversight and coordination that will be led by Brooke Boston, who is returning to the Department. The office is designed primarily for the purpose of ensuring accountability and oversight of all ARRA funds. Additionally, it will serve as a focal point for gathering and dissemination of ARRA information to ensure thoroughness, timeliness and consistency in communicating ARRA related matters, both internally and with outside stakeholders, including state and federal oversight bodies.

This function will be dedicated to looking at issues that cut across ARRA programs, including ARRA reporting, working with responsible division areas, and streamlining reporting, sharing guidance, communicating and coordinating with the Governor's Office and legislative oversight committees as well as working with our internal audit team to identify and mitigate risk in the program development and operation. Several of the activities of the ARRA accountability and oversight office will be leading over the next several weeks include, first an assessment of resources that are needed, and our current core competencies.

Second, an assessment of outsourcing options. Third, an analysis of staffing needs for each activity. Fourth, the development of staffing plans and job descriptions. Fifth, the development of budgets and allocation of administrative funds. Sixth, an estimation of space requirements.

Seventh, the development of time lines for operational activities. Eight, an identification of common areas across ARRA programs to streamline and or outsource program delivery. Nine, the development of a program development checklist to assure thorough consideration of all program components and requirements, including risk assessment.

And lastly, the creation of an ARRA database. This newly created office has developed a report that will provide summary information on each of the ARRA programs as well as the Neighborhood Stabilization Program which is established and awarded under the Housing Economic Recovery Act of 2008. And this represents a significant additional body of work for the Department.

So we have added that function into the ARRA oversight office. ARRA also provides for a second phase of NSP funding that we might apply for. And for the two programs that are both designed as recovery efforts, and thus the inclusion of HERA, NSP in the report that you will be seeing each month.

And the report will provide the governing board and management with a current status update, notes on Board actions, next steps for the public, and other key benchmarks. The development of plans to implement ARRA is very fast moving and there are very high expectations regarding the Department's development and implementation of plans to move these significant funds expeditiously, yet prudently, transparently, and in full compliance with legal requirements and Board established policy.

To underscore the importance of it, we are holding twice weekly meetings with the Governor's senior staff on these issues, with other key agencies that are responsible for administering our funds. In anticipation of funds becoming available, staff is working diligently to develop comprehensive plans addressing necessary staffing systems, training space and other critical logical requirements. And in going through this process, staff has been working proactively and creatively to design some optimal solutions.

And one of the areas where significant opportunities may be presented is in the area of subcontracting or outsourcing. Perhaps the most effective way to leverage staff capabilities will be to procure third parties to perform such functions as providing technical assistance training to recipients and subgrantees, administrators and contractors, to provide contract management services, and to perform inspections. To establish and administer consolidated information gathering systems, and other necessary data related activities to coordinate the large networks that will be created.

Outsourcing could potentially be based on service or activity as opposed to specific ARRA programs. For example, if all the HUD ARRA requirements require a HUD environmental clearance process, then an RFP for environmentals would permit the Department to utilize those successful respondents on all applicable programs. Services that are outsourced could be used either as a direct contract with TDHCA providing a resource in lieu of staff, or possibly as a pre-procured list of resources that sub-recipients could access without having to pursue further procurement.

Staff is recommending the policy decision to employ this approach in its development of ARRA programs, and is asking that staff be authorized to initiate the procurement process as specific potential third party solutions are identified. The senior staff of the Department would make the decision to initiate procurement in specific instances by developing and publishing as appropriate one or more request for proposals or requests for qualifications.

And of course, regular and thorough updates at each Board meeting would be provided. But we won't really know which specific needs we have until we sort of work through those various program designs. So in asking for that flexibility to issue the RFPs or RFQs really becomes key, so that we have the flexibility between Board meetings. Due to the critical nature of the timing for all our decisions again, we are recommending that where the Board has established the broad policy parameters for a program, staff will be able to move forward with the development and circulation of Notices of Funding Availability that are associated with ARRA.

And Brooke Boston has been doing a wonderful job, taking the lead on many of the programs and their implementation along with other key staff.

Brooke, is there anything you would like to add to the mix?

(No audible response.)

MR. GERBER: Okay. Good. I am glad there is not much left on that. With that, Mr. Chairman --

MR. CONINE: I have got a couple of witness affirmation forms here. Mike Sugrue.

MR. SUGRUE: Good morning, Mr. Chair.

MR. CONINE: Good morning.

MR. SUGRUE: Men and ladies of the Board. Tom, welcome. If you all need a fourth, I am available. I love Garden Valley. I would be happy to go out there. My name is Mike Sugrue.

MR. CONINE: Crown Colony.

MR. SUGRUE: Crown Colony, excuse me. Crown Colony, it is even better. Mike Sugrue, Solutions Plus. And I am here to make a couple of comments about the ARRA funds. I have called every syndicator that still has a phone that will ring. There are many that don't ring anymore. I have even gone to some upper tier investors to talk to them.

And I am just starting to see a little movement, speaking about higher yields, that maybe they are at 15 or 16 percent yields. So some of these folks, we might get some funds turned loose. We don't know what yet. But I just want to throw that out as it is kind of what you talked about down in Galveston. At some number, maybe we can get some deals done.

I have gone to the local banks in Dalhart to see what I could do there. And that doesn't work, although I have got a very nice email from the Wells Fargo guy asking me when I am going to have the housing available. So, but I appreciate it. And that is all I have to say about this one. Thank you.

MR. CONINE: Thank you. Any questions of the witness? Diana Lewis?

MS. LEWIS: Good morning.

MR. CONINE: Good morning.

MS. LEWIS: Chair, Mr. Gerber, Board members. My name is Diana Lewis and I am the Director for the Corporation for Supportive Housing here in Texas. And I wanted to comment very briefly on ARRA. And particularly on TCAP and the tax credit exchange program, as they relate to permanent supportive housing.

First of all, I want to thank you for your thoughtfulness and all of your hard work around deploying the stimulus monies. And over the past year, in keeping permanent supportive housing in mind as policies in general are formulated. We appreciate that. We feel like we are making good progress here.

My request is simply that as the staff and Board consider the policy for ARRA for TCAP and for the Tax Credit Exchange Program, that permanent supportive housing really be kept in mind. Particularly because, as we know right now, all deals are difficult. And if that is true, permanent supportive housing deals are doubly so. The financing structure is incredibly complex.

And it makes it more and more difficult to secure investors. In addition, these deals typically, as they come forward to the Board and to the Agency already have substantial commitments of soft money at the local level. So we really you know, the deals represent a tremendous effort at the local level. Tremendous effort to get the local support of the neighborhood and the political level.

Groups like New Hope Housing in Houston and Life Net in Dallas are working on deals that really meet locally defined needs, and will be assets to their communities. But in particular, as we think about possibly investing equity directly into these deals from the Agency level, I think that it warrants special consideration of these deals.

Also, we have relatively few PSH deals in the pipeline right now. We are still really building that pipeline here statewide. So thinking about supportive housing deals as a special category for the ARRA funds, would have a relatively minimal impact on the overall resources available for other deals in the state. We are happy to work with the Agency as this policy is formulated. And I appreciate your time today. Thank you. MR. CONINE: Any questions of the witness?

(No response.)

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: I believe a motion might be needed to accept that policy recommendation from staff.

MS. BINGHAM-ESCAREÑO: I'm prepared.

MR. CONINE: Okay. Ms. Bingham.

MS. BINGHAM-ESCAREÑO: Mr. Chair, I would like to move that the Board allow the staff the flexibility to develop all needed NOFAs to respond timely to the ARRA work, and that the staff will report fully to the Board at each meeting.

MS. RAY: I second the motion --

MR. CONINE: A motion and a second has been made. Any further discussion?

(No response.)

MR. CONINE: You know, I would like to suggest that we do this under the understanding that there may be particular subcontractors or outsourcing that may or may not be required, based on what policies the

Board ultimately sets. So you need to make sure that that is understood in the negotiations that you take forth as we move forward.

Secondly, as several witnesses have said here today, this is a very complex issue. I have had discussions with folks from all over the country. And they are trying to decide equity, debt, what sort of provisions can be done, and so forth. And this is one of the more mind bending activities that I think our staff is going to be dealt in quite some period of time.

So patience as we work through this process will be helpful. And I also want to address some of the folks who have talked about the May 15 date in regards to the ARRA money and so forth. And I think it is best to let that date kind of come and go, and see what happens. For the most part, that is why there is no particular agenda item associated with that here today.

And I think this Board can take into consideration at our next meeting what we do with those, as well as some of the other policies. So I think our staff is working very hard to try to figure out how best to address the issue.

Mike, can you answer another question for me. Is the TCAP money available now, officially? Or is it still awaiting some action either from the Governor's Office or some other place?

MR. GERBER: We have not received guidance yet from the Department of Housing and Urban Development. So we don't know what the rules are for it. It has been set aside and allocated to the state, but there has been no further notice from HUD.

MR. CONINE: So we couldn't give it away today if we wanted to, essentially. I just wanted to make that point, so that everybody understands, we are not delaying for any reason from our perspective. We are still waiting on HUD for some significant policy guidance on the ultimate distribution of the money.

MR. GERBER: And Mr. Chairman, I believe that is also the case for the IRS and for the exchange program.

MR. CONINE: Right. I would suspect that would be the case, although it is two different agencies. That is all the discussion I had. I just wanted to kind of bring the Board up to speed. Ms. Boston?

MS. BOSTON: Sorry. Could we clarify if the motion relating to NOFAs also allows us to take similar action on RFPs and RFQs, Request for Proposals and Request for Qualifications.

MS. BINGHAM-ESCAREÑO: Sure. Mr. Chairman, I didn't include it because it was already in the recommendations. But if you need me to reword it to include the issuance of RFPs and RFQs then we can do that. I will amend my motion.

MR. CONINE: I think we understand that it is all inclusive, or at least that is our intent and when we take the vote here in a minute. Any other discussion on this particular issue?

(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.

Item 3A, Mr. Gerber.

MR. GERBER: (No audible response.)

MR. CONINE: Yes. Let's get started then. We could probably get this one done, couldn't you? Yes. Let's do item -- we are going to go to Item 4. Again, we have, just to let you guys know, a little scheduling issue. For your planning purposes, we have an appointment over at the Senate at 10:30.

And we need to get up and leave at 10:30 to participate in a recognition of our Bootstrap Program and the 10th anniversary of that. It has been a successful program over the years. So we are going to take a break at 10:30. More than likely, we will get a bite to eat while we are over there. Knowing the Senate as I do, nothing happens just right on.

And so we will grab a bite to eat, and we will probably try to come back here. Can we make 11:30, 11:45 do you think, or is that -- 11:45 to 12:00, right in that range. And then crank it up again. So we are going to take an early lunch hour today and grab a bite to eat while we are over at the Capitol. So just for your information.

Item 4A, Mr. Gerber.

MR. GERBER: Mr. Chairman, Item 4A, of course, our disaster recovery items. Kelly Crawford is going to come up, and we are going to talk more fully about this. I am going to ask Don Atwell to come up as well in the interest of time. But by way of status, sort of the proof is in the pudding.

And you have in front of you an excellent document that has been prepared by Kelly and her team, that outlines the progress that has been made. With respect to the COG programs, you see that we have made tremendous progress, completing 434 homes, with pictures of those homes. Many of those homes featured in this book. Good progress is being made by each of the COGs.

With respect to round two, with respect to Hurricane Rita Round Two funds, all seven multifamily projects are underway. All 813 units are under construction. There was one last deal that still needed to close. We got that closed since we last met, and that is underway. So we are very pleased by that.

And all of these units will be completed. Many will be coming online in the fall, but all will be completed in the middle of 2010. There is also tremendous progress to be made on the Homeowner Assistance Program. Kelly and Don, why don't I turn that over to you.

MR. ATWELL: I'll just give the quick summary of --

MR. GERBER: Sure. How did you do on getting to 130.

MR. ATWELL: We got to 136.

MR. GERBER: Excellent.

MR. ATWELL: Don Atwell with ACS. Good morning, Mr. Conine, Mr. Gerber.

MR. CONINE: Good morning, Don.

MR. ATWELL: Members of the Board. There has been a lot of progress over the last month. Big picture, the application is complete. We are up to almost 2,400 now; 2,396. Eligibility determined on 1,634 homes. We have inspected 1,418.

We have met with 793 of the homeowners, put them together with their contractors. And have had 247 real estate closings. 136 starts and 13 homes that are actually complete. And I believe that in that package, you have pictures of the homes that are under construction.

To date, draws that have either been paid or requested is about $5 million. And we have about $45 million allocated to the contractors. We have added nine additional staff that are focused specifically on construction management to help that process move forward. And we have cleared up the wait list. Everybody on the wait list has now received an application and 400 of those people have responded.

So we are getting a good response from the people on the wait list. We have begun a solicitation for additional contractors, to make certain we have enough capacity to finish the program by the end of the contract. And we are continuing to work with the permitting agencies to make certain that things are moving through that process quickly as well as getting the fees waived where we can.

MR. GERBER: Great.

MR. CONINE: Great. Any questions of Mr. Atwell?

(No response.)

MR. CONINE: Thanks for the pictures. They look wonderful.

MR. ATWELL: Yes, sir. Thank you.

MR. CONINE: Glad to see them. Great looking stuff.

MR. ATWELL: Me too. Thank you.

MR. GERBER: Don, how many units did you commit to this Board that you will have completed by the end of -- by the time of the next Board meeting?

MR. ATWELL: This is our favorite part of this meeting, isn't it?

MR. GERBER: Definitely mine.

MR. ATWELL: Between 30 and 35 a week going forward.

MR. CONINE: That is great.

MR. GERBER: Thank you. Kelly, want to take over for 4B? Report on Dolly activities, Ike and Dolly activities.

MS. CRAWFORD: Mr. Chair and Board members, Item 4B is an update on activities related to Hurricane Ike and Dolly. As you will note in the next item, staff is proposing the development of RFD with the intent of addressing problematic barrier issues in a proactive way, much like with the ARRA funds. Staff also released the application for housing funds in March.

However, to date, no applications have been received, primarily as a result of COG and county level methods of distributions. The methods of distributing the funds that have not been approved for any region except a conditional approval for HGAC, which allows Houston and Galveston to proceed. And Southeast Texas Regional Planning Commission has also received approval.

Staff anticipates that six of the eleven COGs affected by Hurricanes Ike and Dolly will request housing funds for approximately 15 to 20 sub-recipients that must have demonstrated capacity to receive the funds from us. Also, I would like to ask Robbye Meyer to provide a quick update on the round tables that we have held for the $58 million multifamily affordable rental housing program.

MS. MEYER: Robbye Meyer, the Director of Multifamily Finance. We had two round tables. One on April 6, in Houston and one on April 15 in Brownsville. We got -- the major comments that we received dealt with the low income targeting and the local political subdivision contributions. And they asked us to reconsider that targeting and the local subdivision contributions, because the local districts are already stressed on contributions and trying to put money forward rebuilding, anyway.

So we are looking at that to restructure some of those point categories. They also asked us as far as ownership, transfers and if we -- if that same owner had to stay in the transaction or could they transfer a property to another owner. And we are considering that also. We had several comments on actually setting a maximum dollar amount on request. And what we are tossing around right now is a maximum amount of $5 million per request.

And that looks like we were going to settle. Also, we had comments on development size. And right now, we are just considering a minimum, and not really a maximum limit. And that minimum limit would be eight units. And it could be single-family or multifamily units, just as long as they are rental units. And I think that that was the major comments that we have received. We are still working on it. Hopefully, we will have the final NOFA released this next week.

MR. GERBER: Thank you, Robbye. Mr. Chairman, I think that concludes our presentation on Ike and Dolly progress. We are methodically working, waiting for the regional Councils of Government to make decisions about how they want to divide and to allocate it to them for housing, non-housing and for critical infrastructure.

MR. CONINE: Dates out there, when they think they might get --

MR. GERBER: Those dates are determined by Office of Rural and Community Affairs in coordination with the Governor's Office. And I believe that they are looking at putting some pressure on the COGs to decide how they want to use those funds more quickly.

MR. CONINE: Okay.

MR. GERBER: I will tell you though, with respect to -- just with the Houston-Galveston area Council, which is receiving the lion's share of the funds, and the Southeast Texas Regional Planning Commission number two, this Agency will be responsible for working with at least $650 million in Ike and Dolly related funds. And there is only more to come.

So a great challenge which, I think, leads nicely into the next item, which is that, we clearly, as we work with these local providers of housing recovery services are going to have needs for technical assistance, contract management, as well as environmental issues, which continues to be a theme. And the environmental regulations are only ramping up from the Department of Housing and Urban Development.

And the next item asks the staff, asks your permission to authorize staff to proceed with an RFP process to again, take any and all necessary actions to go and procure where needed the necessary support in those areas and potentially others, to support the Hurricane Dolly and Ike related missions, and to allow us to develop NOFAs, RFQs, RFPs, and such to get that job done in a timely way. And so with that, we would ask a motion to that effect. And Kelly, is there anything you want to add on that?

MR. CONINE: Anything else?

MS. CRAWFORD: No, not on that.

MR. CONINE: Okay. Do I hear a motion from the Board?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move staff recommendation to authorize staff to proceed with the RFP process and to take all necessary actions.

MR. CONINE: I have a motion from Ms. Ray. How about a second.

MS. BINGHAM-ESCAREÑO: Second.

MR. CONINE: Second by Leslie 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: The motion carries.

MR. GERBER: Mr. Chairman, the last item is Item 4D. I am going to ask Tim Irvine and Kelly who is designated to come forward and explain the item very quickly. And then we are going to mosey over to the Capitol.

MR. IRVINE: Thank you, Mr. Gerber. Tim Irvine with the staff. As Madison Sloan indicated, this is a historically significant problem. There are many people that we are trying to serve who did not have documented clear title. And what we are proposing is a staff policy to put in place reasonable controls to ensure that risks are minimized in allowing these people to participate in the CDBG disaster funding programs when they do not have in fact clear title.

But they have provided an affidavit to establish that they have a basis for claiming ownership. They have exercised indicia of ownership and they do not know of anyone else there who might have an interest in the property who has not given consent. We believe this is a prudent balancing of risk.

We understand that it is always better if you can clear up title. But sometimes when you look at the relative priorities, getting people into appropriate and suitable housing in response to a disaster takes on a higher and more urgent priority. Staff recommends this policy.

MR. CONINE: Tim, who is going to be responsible for having that conversation with the homeowners?

MR. IRVINE: We will develop forms and procedures and the people that would be doing the intake process and processing this would work to secure our completed affidavit and the necessary supporting documentation.

MR. CONINE: I mean, it is a very complicated issue.

MR. IRVINE: Yes, it is.

MR. CONINE: Again, especially for some that have been in the house for a long time, passed it down several generations, whatever.

MR. IRVINE: It is, absolutely. I have personally a lot of experience in working with these very kinds of issues in documenting manufactured housing titles. And I believe that building on that model, we have got very good precedent on which to build these forms and make this as simple quick understandable process.

MR. GERBER: But I would also add that working with groups like Texas Appleseed and Legal Aid and other agencies which are an important part of our disaster recovery efforts have really teamed up nicely with both the Department and ACS and their subcontractors. Really will take on additional importance. They need people to understand what they are signing.

MR. IRVINE: Absolutely. And we also certainly encourage continued perseverance on the issue of clearing these title issues so that these homeowners can recognize the full benefits of home ownership.

MR. CONINE: Okay. The policy is outlined by Mr. Irvine is in Item 4D. Do I hear a motion from the Board?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: So moved; staff recommendation.

MR. CONINE: There is a motion on the floor. 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: The motion carries. Okay. We are going to go into recess right now, as I indicated earlier.

Mike, who is going to lead us over?

MR. GERBER: I will lead you over with Michael --

MR. CONINE: Board, kind of follow Mike and Mike over to the Senate. We can get that over with. We will grab a bite to eat, and then come back around 11:45 or 12:00.

(Whereupon, a short recess was taken.)

MR. CONINE: I call to order back in session for TDHCA. Mike, do you want to clarify something on Item 4?

MR. IRVINE: Mr. Chairman, would like to ask Tim Irvine to come forward and just clarify just what the vote was on one of the items on Item 4.

MR. IRVINE: Thank you, Mr. Chairman, and Mike. I just want to clarify that first of all, with respect to the policy that was approved regarding title issues, that is only for CDBG disaster grants. It is not for loans. It is not for HOME. It is not for Housing Trust Fund.

And I would also like to clarify that the authority to approve the authority to move forwards with the development of NOFAs relating to ARRA is limited to those instances where there is Board approved policy in place. In other words, after today's meeting, there should be policy in place regarding the Community Action Programs.

And those are the ones on which we will move forward. But TCAP and tax exchange have yet to be addressed by this Board, and we will not be moving forward until there is appropriate public consideration of Board developed policy.

MR. CONINE: So clarified. Any questions of Mr. Irvine?

(No response.)

MR. CONINE: Okay.

MR. GERBER: Let's turn over to item 3.

(Whereupon, a short recess was taken.)

MR. CONINE: Calling the Board back in session for TDHCA. Mike, do you want to clarify something on Item 4?

MR. GERBER: Mr. Chairman, I would like to ask Tim Irvine to come forward and just clarify just want the vote was on one of the items on

Item 4.

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In other words, after today's meeting, there should be policy in place regarding the community action programs. And those are the ones on which we will move forward. But TCAP and the tax exchange have yet to be addressed by this Board, and we will not be moving forward until there is appropriate public consideration and Board developed policy.

MR. CONINE: So clarified.

MR. IRVINE: Thank you, sir.

MR. CONINE: Any questions of Mr. Irvine?

(No response.)

MR. CONINE: Okay.

MR. GERBER: Let's turn to Item 3.

MR. CONINE: Item 3.

MR. GERBER: I am going to ask Amy Oehler, our Director of Community Affairs to come forward and walk through the item with us.

MS. OEHLER: Mr. Chairman, and Board members. Item 3A relates to the presentation, discussion and possible approval of the draft U.S.

Department of Energy State Plan for the American Recovery and Reinvestment Act weatherization funds. ARRA provides $326.9 million in weatherization funds to Texas. The DOE State Plan is due on May 12, 2009.

Upon approval of the plan by DOE, the Department will have access to 50 percent of the total allocation. The Department conducted four public input sessions in Austin, Houston, Dallas and El Paso, during the development of the plan. And a public hearing in Austin was held yesterday to solicit feedback on the draft plan that is presented to you today. I am prepared to summarize the verbal and written comments the Department received, before presenting the staff recommendation.

There was significant comment received from the existing sub-recipients. They are in support of the increase of the income eligibility to @00 percent of the federal poverty guidelines, as well as the per unit maximum of $6,500 and the priority list approach to determine weatherization work, as well as performance benchmarks based on expenditure of funds, the quality of work, and the concept of the training academy that is proposed in the plan.

The concerns that the existing sub-recipients have stated are related to the expansion of the weatherization network, the amount of funds proposed to each of the three applicant groups, and the allocation of the ARRA weatherization funds. Additional concerns include a potential duplication of effort by weatherization sub-recipients in cities. There were also five comments received from cities. And all cities support the proposed plan.

There was an additional comment received from five members of Congress relating to the use of the 2000 census data instead of using the metropolitan statistical areas. There were several other comments received from interested parties. The transmission and distribution utilities and several others. The TDUs would like to apply to administer the ARRA funds.

Mission Residential would like some of the ARRA funds to be directed towards multifamily communities. The Air Conditioning Contractors Association is supportive of the proposed plan. And Code Green USA requested that a portion of the ARRA funds be made available to employed power residents and business owners in the communities where the weatherization work is being performed.

The Weatherization Policy Advisory Committee met yesterday after the public hearing, and they voted to not take action on the plan, due to the limited time frame to review the plan and the public comments. At this time, if there are no questions, I would like to go ahead and make the staff proposal.

MR. CONINE: Okay.

MS. OEHLER: Okay? Based on the public comment received, and guidance from the Department of Energy, staff recommends that the Board approve the DOE State Plan today with two modifications. One, to allocate $180 million to the existing weatherization network, and $101.8 million to the 32 cities detailed in the plan. And B, staff recommends the awards to cities that are less than a million will be provided directly to the existing weatherization provider in that area and require that the weatherization services be delivered in the city limits.

MR. GERBER: And Mr. Chairman and Board members, it is important to note, this is a departure from what is the staff recommendation that is in your book. If there is any member of the public who would like a copy of the revised staff recommendation, there are copies available to you. What was originally in the book was 140 going to both the existing weatherization systems provider network and 140 going to cities with a population of 75,000 or more.

Staff has been working intensively, both with cities and with the existing weatherization providers to look at capacity and to assess that, to determine, how do we get the job done in the two year, 2 ½ year time frame that we really do have, to weatherize all these homes. We are talking about 39,000 homes. So the decision has been made to revise the staff recommendation to $180 million for the existing weatherization network, 100 million going to the cities.

Those cities that are going to be receiving less than a million dollars will be required to contract -- will be required to have their services rendered by the existing WAP provider for that region. So for example, if the City of Denton is receiving $900,000, the existing provider in their region will have added to their funds that they are receiving to serve their entire region, the funds for the City of Denton, but those funds can only be used in the City of Denton for the benefit of those folks there.

Just the costs of TA, technical assistance, training are prohibitive, given that it is just a one time shot of money. Also it is important to note that the benchmarks that we are expecting folks to live up to. We are going to have very clear monthly benchmarks that we are going to be expecting both the existing weatherization assistance providers and the cities and other partners to move these weatherization dollars, that we are going to expect them to live up to.

And what that means is that we are going to be seeking full flexibility for those that are not performing to remove funds, to deobligate funds from them, and to move those funds over to those agencies that are performing, and to make those decisions on an ongoing basis as needed. Obviously, we don't want to do that, but Texas also doesn't want to leave money on the table. So with that, staff is asking for your approval of that recommendation. And I believe there is public comment on it.

MR. CONINE: Yes, there is. Tama Shaw.

MS. SHAW: I am going to speak under D.

MR. CONINE: Under D. Okay. Stella Rodriguez.

MS. RODRIGUEZ: Good afternoon, Mr. Chairman, members of the Board and Mr. Gerber. My name is Stella Rodriguez, and I am with the Texas Association of Community Action Agencies. With respect to this agenda item and on behalf of our network, we support the revised weatherization proposal, and are ready to move forward. Thank you, Mr. Gerber and staff for your continued good working relationship with this network. Thank you.

MR. CONINE: Short and sweet. Thank you. Any questions?

MR. MUNOZ: Mr. Chair.

MR. CONINE: Yes.

MR. MUNOZ: I may have a question of Amy.

MR. CONINE: Okay.

MR. MUNOZ: Amy, who will monitor -- and this is not a benchmark, I don't believe. But who will monitor that those dollars for cities receiving less than a million dollars are expended in those cities? Will the local provider or will your office?

MS. OEHLER: Yes. TDHCA staff.

MR. MUNOZ: Okay. In the instance where, as the Executive Director Mr. Gerber indicated, the full flexibility to rescind those dollars from those who may not have used it appropriately or allegedly used it appropriately, will there be some kind of appeal process?

MR. GERBER: There certainly will be, as we work through this. I mean, again, we don't want to deobligate funds from anyone. And there is an appeal process, always to this Board. That also said, we are going to have clear benchmarks and where there is a deviation, if someone is underperforming, and we don't think they are going to be able to use the amount of funds we have allocated to them, we are going to retain the right to be able to move those dollars.

I don't think we are going to have any problems with funds being misused. I think the problem is going to be, just not being able to move fast enough, not being able to build up that capacity quick enough. And that is where the TA, the technical assistance and training work that the Department is going to really be escalating in upcoming months.

MR. MUNOZ: And I agree. And I think that that kind of flexibility and discretion is appropriate. But I just think that there may be some instances where they may like, would prefer the opportunity to say well, we haven't met those benchmarks as of yet, but here is how we will accelerate in the immediate future. And just start appellate process, I think. Always in these situations appropriate. And so if there will be one --

MR. GERBER: There will be. And Counsel, do you want to -- correct? They always have the right to come back to our Board.

MR. HAMBY: Kevin Hamby, General Counsel. They don't always have the right to come to the Board, but under the circumstances that was described by Dr. Munoz, that would be one of the eligible activities to come under one point, Texas Administrative Code Chapter 10, Rule 1.7. They would have that ability to come before the Board. In fact, if they don't like your opinion, they can ask you to appeal your own opinion. They can have you appeal your own opinion under 1.8.

MR. CONINE: Oh, lovely.

MR. HAMBY: Yes.

MR. CONINE: And I thought we were going to get through the whole meeting with him not saying anything. That is your fault. You get that one. A.R. Kampschafer.

MR. KAMPSCHAFER: Good afternoon, ladies and gentlemen and Chairman.

MR. CONINE: Good afternoon.

MR. KAMPSCHAFER: Thank you very much for the opportunity to speak to you today. Mr. Gerber and the staff of the weatherization assistance section have worked very hard and spent many long days and long weekends for at least four months planning and negotiating in an effort to assure an effective and efficient expenditure of as much possible of the stimulus program funds available for weatherization.

Throughout this time, I have expressed many concerns regarding the process for distribution of funds, program quality by new sub-recipients and possible duplication of effort. But after reviewing the training program outlined in the plan and meeting with the TDHCA staff this morning to clarify some issues, and seeing the revised distribution rules, most of my concerns have been addressed.

I wish to express my appreciation to Mr. Gerber and the TDHCA staff for their willingness to listen to the concerns of the existing WAP sub-recipients and make revisions in response to our comments. My agency and I, I am sure all of the other existing WAP sub-grantees will do everything we can to make the ARRA weatherization program successful and provide services to as many eligible low income Texans as possible. Thank you very much.

MR. CONINE: Thank you. Appreciate it. Any questions?

(No response.)

MR. CONINE: Gloria Arriaga.

MS. ARRIAGA: Good afternoon. My name is Gloria Arriaga, and I am the Executive Director for the Alamo Area Council of Governments. First of all, I would like to recognize the hard work and the dedication of the Board of Governors, especially our very own Gloria Ray who sits on our Housing Advisory Committee. The TDHCA staff under the leadership of Mike

Gerber, Amy Oehler whom we have worked with in the past, Michael DeYoung who we have continued working with.

I am here today to convey to you that A-COG is hammer ready. Not only are we hammer ready, but we are already executing a well thought out capacity plan aimed to expend the stimulus funds in our twelve county region that includes large cities and rural counties. For almost 30 years, A-COG has been weatherizing homes throughout the twelve-county region.

A-COG has worked hard to ensure TDHCA's success in the federal Weatherization Assistance Program by meeting the DOE and TDHCA mandates and goals. A-COG has consistently weatherized more homes than the minimum requirement. We have also weatherized homes in consistent compliance with federal and state guidelines, and we have also made sure that quality services along with the appropriate level of weatherization measures were provided to eligible elderly, disabled and low income families in our service delivery area.

We can commit to expend the full stimulus funds. We already have the infrastructure in place. And also, we have the reputation of being the leader in weatherization in our region. Mr. Chairman and members of the Governing Board, A-COG has already identified and secured several eligible low income multifamily and senior apartment complexes for weatherization. We are already processing audits for some of these multifamily projects, as well as processing audits for single-family houses.

Currently, we are in the process of soliciting through two separate RFPs for the immediate contracting of professional services to assist our weatherization inspectors with a processing of energy assessments and to assist our weatherization intake personnel with the processing of applications. A-COM believes contracting for services versus the hiring of several new staff is a prudent thing to do for our respective agency, and for our regional citizens. Because of the influx of the stimulus dollars is a temporary program.

We are committed to continue -- let me go on ahead and wrap it up. We are committed to continue our successful working relationship with TDHCA in weatherizing homes in our region, and we are very much appreciative of what has been accomplished today and what is being proposed today, and we fully support it. Thank you very much.

MR. CONINE: Thank you. William Montez.

MR. MONTEZ: Mr. Chairman, members of the Board, I am the Chair of the Housing Advisory Committee for A-COG. And I can't tell you enough and Ms. Ray certainly can testify to this, the dedication of our staff to this weatherization program. And of course, the dedicated services gotten from TDHCA. I will make my remarks very short, because we have had this remarkable change that was announced just recently.

But we want to assure you that we fully support these new changes and your delivery plan for these stimulus funds. Two items that we would like to focus on. One is obviously, in this area of government streamlining, we would like for you to streamline your monitoring of the weatherization program.

For these new people that are coming on board, obviously, they will need to be audited. But old programs like ours, older programs like ours may need to have a little more streamlining in your monitoring if we perform well. And more importantly is to provide an increasing number of training opportunities for people in the field particularly.

I am a construction lender by training. I have been on a lot of construction sites. And to see our staff, very skilled in work writeups, knowing what is behind the walls, and making a house ready for weatherization is a joy to see. That is about all we have to say.

We are just committed to continuing our high level of execution of our funding and more importantly, when Gloria mentioned we are hammer ready, that means our foundation is laid. It is poured. We are ready to frame. Which means we that we have a solid foundation to move forward with this new allocation. So we appreciate it.

MR. CONINE: Thank you. That is all the witness affirmation forms I have on this particular item.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray. Yes, ma'am.

MS. RAY: For full disclosure, I Gloria Ray do not sit on the Alamo Area Council of Government board of directors. I only perform in an advisory capacity. I do not take any votes associated with any expenditure of funds of any kind for the Alamo Area Council of Government. Number two, Mr. Chairman, I move staff's recommendation to adopt the revised execution plan for the ARRA money.

MR. CONINE: Motion. Do I hear a second?

MR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Is there 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. Item 3B.

MR. GERBER: Mr. Chairman, Item 3B is a presentation and possible approval of a substantial amendment to the Consolidated Plan for 2008 for our Homelessness Prevention and Rapid Rehousing Program. These are the $41.4 million of Homelessness Prevention and Rapid Rehousing Program dollars that have been provided to the Department through the Stimulus Bill.

HUD requires that the Department submit a substantial amendment to the Consolidated Plan, basically saying how we are going to be using these funds. Every purpose that is eligible under the rules for the HPRP program for financial assistance for rent, utility payments, utility and rent deposits as well as for housing relocation and stabilization services, data collection and certainly the administrative costs attendant with running the program are being included as eligible.

And so what we are asking is to just have the permission to send this amendment to our already present and submitted Consolidated Plan up to HUD to tell them that we are going to be incorporating each of these provisions into it, and making funds available for these purposes.

MR. CONINE: Any questions of Mr. Gerber?

(No response.)

MR. CONINE: If not, I will entertain a motion.

MR. CARDENAS: So moved.

MR. CONINE: So moved by Mr. Cardenas. Do I hear a second?

MS. BINGHAM-ESCAREÑO: Second.

MR. CONINE: Second by Leslie 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: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 3C.

MR. GERBER: Mr. Chairman and Board members, Item 3C is a presentation of that plan for prevention and rapid rehousing that is provided with those stimulus dollars. As I just mentioned, Texas is receiving 41.4 million for this purpose. And the funds can be used to assist people with financial assistance for housing relocation and stabilization services among other activities.

Funds are going to be awarded on a competitive basis. The minimum amount to apply for is $250,000, and the maximum award will be given of a million dollars. The NOFA includes one set aside however, of $2,073,639 for homelessness prevention and case management pilot project. Lastly, the NOFA will accept supplemental budget requests in the event that funds remain unallocated from the first round of reviews. The NOFA is scheduled to be released on April 27, and applications will be due to the Department May 22.

Again, holding to the intent of getting these funds distributed to those partners of the Department who will be using these dollars just as quickly as possible. And we are seeking Board's approval of the NOFA.

MR. CONINE: No comments. Ready for a motion.

MS. BINGHAM-ESCAREÑO: I will move to approve.

MR. CONINE: Motion by Ms. Bingham. Second?

MR. CARDENAS: Second.

MR. CONINE: 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: The motion carries. Three D.

MR. GERBER: Mr. Chairman and Board members, Item 3D is a presentation and discussion of the existing weatherization network. And what I would like to do is, with your indulgence, take no more than five minutes, which we know some folks will have to condense their remarks, and just simply answer the question, what exactly do we do in the weatherization program. Because I suspect some folks in the audience might be asking that question.

So Amy and Michael, if you would take over and walk us through. And again, just about five minutes. We really are fairly limited on time.

MS. OEHLER: Okay. And actually, I would like to ask Tama Shaw and Rose Jackson to come present on the weatherization program. Tama Shaw is the Executive Director of Hill Country community action agency. And Rose Jackson is the weatherization Director for A-COG.

MR. CONINE: Third time is the charm.

MS. SHAW: I know. I am so excited. I am finally here. And I am going to have to be a speed reader to get through this in five minutes. I am Tama Shaw, Executive Director of Hill Country Community Action in San Saba. We have been providing weatherization for 30 years. And at this point, we cover 13 counties.

I am supposed to talk about client eligibility. And in a nutshell, we have 14 community senior centers in our service area where people go in and fill out weatherization applications. We also do the CEAP program, so anybody that applies for energy assistance is referred to the weatherization program. And when the applications are completed, they go to the central office in San Saba where we screen for eligibility, for income eligibility. People on SSI, Social Security, disability and TANF are categorically eligible. Others have to give us proof of the last 30 days income.

We annualize that, and then determine if they fall within the 125 percent of federal poverty guidelines. Once we determine a house, the weatherization needs for a home, we make sure that we leverage all of the other funds available to us. We contract with several utility companies for weatherization funds. And we leverage our CEAP heating and cooling component funds in order to address that the entire energy needs of a household are met.

We have two subcontractors and regarding procurement at this point, we have two subcontractors that do the actual weatherization work, and heating and air conditioning systems. Our own staff do the assessment and followup after the work is done. Every four years, based on the contractual requirements, or more often if needed, we procure subcontractors, advertising, getting the packet together. And we post them on the courthouse, put it in newspapers.

Subcontractors have to provide proof of insurance, debarment certification, criminal background checks and that type of thing. Then we go out, once the house is completed. We make sure that the work was done, that the contractor said was done. And TDHCA comes out and monitors 19 percent of the houses completed each year. We have a fantastic fiscal department who tracks all of this funding and keeps us in compliance.

And at the beginning of the year, we take the resources, figure out what we are going to need to do for each house, and we have a working budget. The budget fluctuates of course, depending on the funding we get, and the quality of the houses we weatherize. But the technical aspect of weatherization and the complex accounting necessary to leverage the fund and remain in compliance has increased substantially over the years.

And I am very proud of our staff's ability to manage such a complex program and at the same time provide a quality service. And I thank you. And I hope that wasn't too long.

MR. GERBER: Thanks, Tama.

MR. CONINE: Thank you.

MS. JACKSON: Good afternoon. I am Rose Jackson. Quickly, I am just going to take you through the second part of it. We do the weatherization assessment. The assessment consists of a diagnostic tools and tests, blower doors what drives the whole audit. You are trying to find out if there is air that is coming in. You are losing money, going literally out the window.

We do duct testing. Duct testing, we use pressure pans, in some instances, maybe a duct blaster. And there again, you are trying to find out if there is any air sealing measures that need to be done. Under health and safety issues, we have again, Co2 detectors, monoxers. You are trying to make sure that there is any gas appliances that are not leaking. That is a health and safety issue.

On the energy audit, once you acquire all of the information based on your blower door, your duct testing, your health and safety issues, then what you end up doing is you compile all of the information on the household, the number of people that live there, their consumption of utility. And then you enter all your tests and all your data into what is called an energy audit.

From the energy audit, the energy audit will actually spew back to you in a list of priority measures that are going to be done in that house. Normally, the number one thing that comes back is obviously, insulation. So, and other things, like maybe windows and doors might rank very low on your list of weatherization measures. But that is what the purpose of the energy audit is. It is a recipe that we then turn over to the contractors.

At our agency, we have contractors. And those would be called maybe work orders for other agencies, for us. We just give them the audit. They go out there. They make sure that everything that we ask them to do and install, they install it. And then there is a final inspection. We get the return of what they have done. We go out there.

We actually inspect the house, make sure everything was done, every little penny that we spent is there in some measure, and that the client is happy. The sub-recipient obviously is us, we are happy if the client and the contractor did their job and the client is happy.

And finally, in terms of client education, we pass out this based from the Department of Energy and what TDHCA provides us. It is called energy savers, tips on saving energy and money at home. And so the client is given education as to how to conserve their energy and save money. So thank you very much for this opportunity.

MR. CONINE: Thank you, Ms. Jackson. If you could sign a witness affirmation form, I didn't find one for you here. So since you spoke, you need to sign up. Thank you.

MR. GERBER: Mr. Chairman, I would just note that Rose and Gloria and Art and Tama and others I know have traveled long and far to be with us today, and who have cared very deeply about this, have been great partners with the Department, and we look forward to working with them to move these dollars forward.

As we look forward to working with new partners as well in the days ahead to get the $327 million out the door. Moving on to Item 5, Mr. Chairman.

MR. CONINE: Okay.

MR. GERBER: Is HOME and Housing Trust Fund Division items. I am going to let Cameron Dorsey run us through very quickly, these items.

MR. DORSEY: Sure. Cameron Dorsey, acting Programs Manager for HOME. Item 5A, Mr. Chair and Board members, is staff recommendation for HOME program awards. The first set is from the 2008 single-family HOME NOFA. These awards conclude the 2008 application funding cycle for the HOME investment partnership program, single-family program funds.

Twenty-two applications are being presented for a funding recommendation today. The single-family NOFA is oversubscribed by $405,043. Staff is recommending that the Board utilize $405,043 of previously awarded but declined HOME funds which are available to commit in order to fully fund all eligible applications received and reflected in the award recommendations log. It should also be noted that one applicant has appealed the termination of an application which may be presented at a future meeting.

Staff is recommending for award 22 applications totaling $8,300,000 in project funds, and $356,000 in administrative funds, which will result in 145 affordable housing units. I will go on unless you guys feel differently, I will go on and do the entire 5A.

MR. GERBER: Why don't we go ahead and ask for a motion?

MR. DORSEY: Okay.

MR. GERBER: To seek approval of the award and 22 applications totaling 8.3 million.

MR. CONINE: Okay.

MR. GERBER: TBRA.

MR. CONINE: Right. Do I hear a motion? No comment?

MS. BINGHAM-ESCAREÑO: Sure. Mr. Chair, I will make a motion to approve the '08 as presented.

MR. CONINE: Five A.

MS. BINGHAM-ESCAREÑO: Five A. Yes.

MR. CONINE: Okay.

MS. BINGHAM-ESCAREÑO: Actually, I think we are doing, are we doing all of them?

MR. DORSEY: A section of 5A.

MR. GERBER: Five A just up to tenant based rental assistance.

MS. BINGHAM-ESCAREÑO: Pardon me. Okay.

MR. CONINE: The owner-occupied and the Homeowner Assistance Program.

MR. DORSEY: And TBRA.

MR. CONINE: And TBRA?

MR. DORSEY: Yes.

MR. CONINE: Okay. All three.

MR. MUNOZ: Second.

MR. CONINE: There is a second by Dr. Munoz. 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.

MR. DORSEY: All right. The next set of HOME awards are from the 2008 contract for deed NOFA. Today's staff is recommending one application for $500,000 in project funds and $20,000 in administrative funds toward a contract for deed award to assist ten families.

MR. CONINE: Okay.

MR. DORSEY: Again, I can keep going.

MR. CONINE: No comment on that one either. Do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray?

MS. RAY: I move staff recommendation.

MR. CONINE: Motion to approve. Do I hear a second?

MS. BINGHAM-ESCAREÑO: 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, say no.

(No response.)

MR. CONINE: The motion carries.

MR. DORSEY: All right. The last set of HOME awards are from the HOME disaster NOFA. The City of Roma submitted an application for assistance under the HOME owner-occupied housing assistance for disaster relief program. The City is requesting $500,000 in project funds and $20,000 in administrative funds, and is proposing to assist seven eligible households that were directly affected by severe flooding.

Most of the homeowners did not have insurance and continue to live in substandard housing conditions. Staff recommends an award to the City of Roma for $500,000 and approval of the 4 percent of project funds for program administration.

MR. CONINE: Do I hear a motion?

MS. BINGHAM-ESCAREÑO: So moved; staff recommendation.

MR. CONINE: Motion by Ms. Bingham. Do I hear a second?

MR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. 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.

MR. DORSEY: All right. Item 5B are the Housing Trust Fund awards. The first set of Housing Trust Fund awards are from the Housing Trust Fund superNOFA. A Notice of Funding Availability for $1 million for the 2009 home ownership superNOFA was approved by the Board on the December 18, 2008 Board meeting. The Department has received nine applications to date, requesting a total of $1,830,000 in project funds, and $75,600 in administrative funds for a total of a little over 1.9 million.

On March 12, 2008 the Board approved awards totaling $500,000, leaving $500,000 available. If the two applications being considered today are awarded, the remaining HTF funds, an additional 32 families will be assisted and no funds will remain under the NOFA. The second set of Housing Trust Fund awards are for the Veteran's Housing Support Program.

Two applications are being considered here today. If the two applications are awarded, the recommended $499,995 would assist 14 veteran households through the Veteran Homebuyer Assistance with Rehabilitation Program and $505,000 will remain available under the NOFA. Staff recommends approval of the awards as reflected in the award logs for both of those.

MR. CONINE: The first two then.

MR. DORSEY: Yes.

MR. MUNOZ: Move staff recommendation.

MR. CONINE: Motion by Dr. Munoz. 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: The motion carries.

MR. DORSEY: All right. The last set of Housing Trust Fund awards are from the Rental Production Program. A Notice of Funding Availability for $2,594,000 for rental production was approved by the Board in September of 2008. The Board has previously approved $1,334,000 in funds.

The Department currently has six pending applications totaling $1,995,000. One of these applications for $500,000 is being recommended today under this agenda item. Another application for $460,000 is being considered in conjunction with private activity bonds, 4 percent Housing Tax Credits and HOME funds for persons with disabilities under a separate agenda item. If these recommended applications are awarded today, $300,000 in funds will remain available under the NOFA for award to pending applications.

The Willows Apartments which is also reflected on the agenda has been reviewed and underwritten assuming a $500,000 loan and may need to be reevaluated if only $300,000 remains in the NOFA. However, should the Board choose not approve one of the recommended applications then more than $500,000 would become available to fund the Willows Apartments. Staff recommends the Willows Apartments for a $500,000 award, subject to the Board's denial or withdrawal of one of the other Rental Production Program awards on today's agenda.

MR. CONINE: Okay. I do have some public comment on a couple of these items. Gilbert Piet.

MR. PIET: Mr. Chairman, members of the Board, Mr. Gerber. My name is Gil Piet. That is one of those hard French names. I am here to speak to you about Meadow Park Village Apartments in Lockhart. It is TDHCA 08-335. I just wanted to let you know that we had hoped to be able to table this issue. And failing that, we will probably, or I believe that we have filed an appeal, simply to get some time to try to discuss the underwriting.

The underwriting, we did not see it until a week ago, when the agenda was published, and it was attached. And we were not aware of some of the terms. And so we simply are hoping to have some time to discuss that with underwriting. We have always been able to in the past. But with the short time frame after the publication of the agenda, it didn't leave us sufficient time to discuss that.

So we are simply hoping to be able to speak with staff and see if we can find out exactly what model is being used, and how the numbers were arrived at. Historically, this property has not thrown off enough money to service the debt as it is in the underwriting. So we are simply looking for some time to figure out how we arrived at that, and where we are going to go from here.

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

(No response.)

MR. CONINE: Thank you. Ray Lucas?

MR. LUCAS: Pass.

MR. CONINE: Pass. Cynthia Bast. Who I am sure has got writer's cramp, after as many of these witness affirmation forms as I have seen from you.

MS. BAST: Cynthia Bast of Locke, Lord, Bissel and Liddell.

Just to follow up on Mr. Piet's comments. I believe what we are asking the Board to do is to go ahead and approve this award to the Meadow Park Apartments in Lockhart, just acknowledging that we do have an underwriting appeal pending that we would like to work out some issues. Thank you.

MR. CONINE: Okay. So we are back to --

MR. GERBER: Mr. Gouris, would you like to comment?

MR. GOURIS: Tom Gouris, Deputy Executive Director for Housing Programs. The underwriting report for this did get posted last week, and seven days before the Board meeting. I don't -- I think that the applicant did not have time to reconcile with us. And they have submitted a letter to us, asking for some clarification. That would normally go into the appeal process, that Mr. Gerber would be able to address. And if not, then it would come back next month as a Board appeal.

MR. CONINE: So I am confused. Do you want us to hold off on this decision or Ms. Bast asked us to go ahead with this decision. I am confused.

MS. RAY: That is my question. Same question.

MR. GOURIS: Well, I think --

MR. CONINE: What are we doing here?

MR. GOURIS: Ms. Bast asked for you to move forward with the award subject to evaluation, reevaluation of the structure of the terms, and that is the basis of their appeal. The quandary comes in, in that there is an applicant right below them that is ready to move forward as well. And they want to be able to preserve the allocation that would go to them, and not go to the next transaction.

So they are looking for you to place hold the issue of appeal on the structure. The issue is that they ask for a portion of the loan to be forgivable. Underwriting at this point believes that the loan is fully repayable. That is what they want to get discussed. And that is the part of the issue that they want to --

MR. CONINE: So if we give it to them, and it is fully repayable, we don't know whether they are going to accept it or not.

MR. GOURIS: That is correct.

MR. CONINE: It seems to me like we ought to table it until you guys can figure out what it is going to be.

MR. DORSEY: We table both? The whole action?

MR. GOURIS: That would be the case.

MR DORSEY: We could table --

MR. GOURIS: So we table this item completely.

MR. CONINE: Including the Willows?

MR. GOURIS: Including -- well, yes. We would have to table the Willows as well, in order to preserve these folks position in line.

MR. CONINE: Well, I have a witness affirmation form on the Willows. Maybe we ought to hear from them, kind of out of turn here, for just a second. J. Rabelais. Conine is a bad enough name.

MR. RABELAIS: It is another Frenchman from Louisiana. It is Rabelais. Mr. Chairman, members of the Board, Mr. Gerber, I am here. I am J. Rabelais. I represent McRae, who is the general partner of the Willows.

They are the owner and operator. What we have had is some great discussion with staff.

We had submitted an application on this for $500,000 for Housing Trust Fund funds. And I think we are ready to go, between the TDHCA and our organization. But it comes in that the ranking, or our positioning by way of a time value came in to where we are on the back end with 300,000 staring us in the face. We wouldn't like to not have to revise the project itself and give benefit to those tenants that are staying in a 25 year old building. We would like to spruce it up.

To do 300,000 versus a $500,000 upgrade just doesn't make good sense. But what we can come to you with today, because we do understand that there are two deals in front of us, by way of the time posture, is that what we would like to do is now that we have an application, and I think everyone is settled on that it is a go, but yet there is a funding shortage, what we would like to do is to have that application stay in play and should one of the two priors in front of us drop out, fall away, or not approve, then we would be next in line.

Or as an alternative, we would like this Board and staff to give due consideration to when the next round of funding or the funding from across the street comes in for the Housing Trust Fund, that that next $200,000 be applied to this application. We think it is in fairness. We don't want to get into anyone else's territory. We would really like to benefit our tenants. And that is a proposal.

And if we could ask for resolution or direction from the staff to keep us alive on this application. And then whatever the event is between now and whenever it gets funded, let's say September even, we can push our production schedules to allow for that to still happen. That is where we are.

MR. CONINE: Any questions of the witness? Mr. Gouris.

MR. GOURIS: So with that, it would make sense to table the item entirely.

MR. CONINE: Tom says what he wants, I think. Do I hear a motion from the Board.

MS. BINGHAM-ESCAREÑO: Mr. Chair, motion to table the item.

MR. CONINE: Is there a second?

MR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor to table until the next meeting, is that appropriate, since we need to do to a time certain. Okay. Any other discussion?

(No response.)

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.

MR. DORSEY: All right. Item 5C is amendments to HOME program contracts or commitments. We only have one today. Silverleaf at Chandler is an 80 unit elderly multifamily development, to be developed in Chandler, Henderson County. The applicant was awarded $761,465 in 9 percent Housing Tax Credits. And $1,658,090 in HOME funds at the July 31, 2008 Board meeting.

The applicant subsequently returned their 2008 tax credit allocation due to significant adverse changes in market conditions. At that time, the applicant began contemplating the use of additional HOME funds to complete a smaller development in Chandler. At the March 12, 2008 Board meeting, the applicant asked that the Board consider amending the approved application and contract by increasing the HOME loan to $3 million and reducing the size of the development, to I believe, 30 units.

Despite the requested changes, the applicant has maintained the amenities that were originally committed in the application for the 80 unit development plan. The NOFA under which the subject application was awarded included no provisions to specifically allow or prohibit deferred forgivable debt as the applicant has requested. The Board has generally limited the award of HOME funds in cases in which it cannot be repaid.

However, two other applications, Floresville Senior Village and Creekview Apartments were awarded with similar financing structures, including some forgivable HOME funds under the same NOFA. Moreover, the current RHG NOFA includes a provision allowing deferred forgivable debt under limited circumstances when additional rent and income targeting is committed, which the applicant's revised proposal does meet.

I believe the writeup says it doesn't meet it. In fact, they would meet that requirement. The proposed structure does not include --

MR. CONINE: Wait.

MR. DORSEY: What is that?

MR. CONINE: Did you, can you tell us which income limits he is targeting, just out of curiosity?

MR. DORSEY: Sure. He is targeting 10 percent of his units for 30 percent of AMI, and 50 percent of his units at 50 percent of AMI. And the remaining units at 60 percent of AMI.

MR. CONINE: Okay. Thank you.

MR. DORSEY: The proposed structure does not include any other third party sources of funds to meet the leveraging requirement in the previous or current NOFA. The Board has in limited circumstances chosen to waive the requirement for repayment and at least a portion of the leveraging requirement in the past.

Finally, $35,000 in offsite costs reflected in the applicant's budget are ineligible under the HOME program, and require an alternative source of financing, which has not been provided by the applicant. I believe earlier when I talked to Mr. Sugrue on this deal, he mentioned that the City had pledged $100,000 to the deal to help fund this. But as of yet, we have not seen a commitment.

The Real Estate Analysis Division has evaluated the requested amendments to determine if the development remains financially feasible with the revised HOME loans, HOME loan terms and development plan. The underwriter's report indicates that the transaction structured with 30 units and $3 million in HOME funds would meet the real estate analysis rules and guidelines for financial feasibility with $1,760,851 structured as a fully repayable first lien with an interest rate equal to zero percent and an amortization period of 40 years.

And the remaining portion structured as a deferred forgivable loan. The underwriting report reflects the capacity to support $260,851 more in repayable HOME funds than requested by the applicant. He requested an even split of 1.5 million repayable, 1.5 million forgivable.

The underwriting report does not consider the impact of the ineligible offsite costs, which would result in a $35,000 gap in financing which would not be allowed to be funding out of a deferred developer fee. Obviously, with $100,000 in additional funds that he had mentioned earlier today, that would help close that gap, and in fact, he may need less HOME funds. Should the Board choose to award the applicant's amendment, staff recommends that the award be structured as underwritten and that the additional funds be awarded from the Department's deobligated funds balance.

Additionally, staff recommends that the HOME loan not exceed $2,965,000 in order to exclude ineligible offsite costs from the HOME loan and that the award be condition upon an alternative source of financing to fund the offsite costs. Modifying Board approved loan structures as proposed can only be done at the Board's discretion pursuant to Title 10 of the Texas Government Code 2306.146. Staff does not generally recommend waivers of Board policies and rules, and therefore recommends that the applicant's requests be denied.

MR. CONINE: We have a witness affirmation form from Mike Sugrue. And he has got a -- Cynthia Bast is yielding time to Mike, so he has got five minutes if he needs it.

MR. SUGRUE: Good afternoon, Mr. Chair, Board members, Mr. Gerber.

MR. CONINE: Good afternoon.

MR. SUGRUE: That was a mouthful. And everything he says is accurate. We are passing out the EDC commitment from Chandler that I was able to acquire last Tuesday, which will take care of any ineligible costs. The application was done in accordance with the new NOFA which allows a 50 percent forgivable. Correct?

MR. DORSEY: That is right.

MR. SUGRUE: But the original HOME award we had, from when we had the tax credit deal was not from the same NOFA. So we are putting funds in two different NOFAs together, trying to make this work. But I believe the City is showing how bad they want housing, that they have no money, and they stepped up and put in 100 grand.

And we have 17 people on a waiting list for 30 units. And those 17 people have been out there hanging on, based on a sign that says the tax credit deal is coming.

MR. CONINE: Are you finished?

MR. SUGRUE: I am finished.

MR. CONINE: Are you agreeing to the overall reduction by the

35,000 as recommended by staff? Is that what I heard you say?

MR. SUGRUE: You didn't hear me say that. But since I have the money from the City, I could live with that, although the money from the City is a loan, as you will see. It is not a grant.

MR. CONINE: Well, at least you don't have to pay for it out of your left pocket.

MR. SUGRUE: That is correct.

MR. CONINE: Okay. And did I hear that the repayable versus the non repayable or forgivable piece had changed from his application?

MR. DORSEY: That is right.

MR. CONINE: And can you re-recite those changes, to make sure I understood what you said? Based on the overall new loan amount?

MR. DORSEY: Sure. Based on the $3 million, we, when underwritten, we felt like an additional $260,000 approximately was repayable, above and beyond what Mr. Sugrue suggested.

MR. CONINE: Right.

MR. DORSEY: I think it would probably be prudent for staff to take a look at that, given this additional piece of debt, so that we make sure that we don't overburden the property, given the $100,000 from the City.

MR. CONINE: Okay.

MR. DORSEY: But that is what the underwriting found.

MR. CONINE: Okay. I don't think I have any further questions. Does anybody else?

MS. BINGHAM-ESCAREÑO: Just to make sure I understand, so you are okay with that? Instead of the 1.5 split repayable and not repayable, what staff is recommending, you are okay with?

MR. SUGRUE: That is out of my left pocket, because that leaves a lot more deferred. And with the small amount of cash flow that this will pay over years, it is like twelve years to get it back as it is. I would be okay with some semblance of that.

But I think, as Cameron just said, I think we need to look at what the additional debt from the City does and maybe we can meet halfway or something. Obviously, it has to be feasible for everybody, including me. But --

MR. CONINE: you know, I would probably suggest that let's let staff kind of run the new numbers and let's see. Wherever it ends up, it ends up. Mr. Sugrue doesn't have to take it if he doesn't like it. Any further questions of the witness?

(No response.)

MR. CONINE: Seeing none, I think I will entertain a motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: If I think I understand the forming of the motion, I move that we table this discussion on this item until such time as the developer and staff work out the impact of the $100,000 loan from the City of Chandler.

MR. CONINE: I think, Ms. Ray, it would probably be okay at least from this Board member's perspective to let them kind of work that out, after we go ahead and -- approve it subject to them working it out, I guess would be the case.

MS. RAY: Then I withdraw that motion and re-frame the motion to approve the award subject to working out the impact of the $100,000 from the City of Chandler.

MR. CONINE: Do I hear a second.

MS. BINGHAM-ESCAREÑO: I will second that.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Mr. Sugrue, the next time I want to see you on this project is about a ribbon cutting. That you have got a grand opening.

MR. SUGRUE: Thank you.

MR. CONINE: You have worked this one to death in true Sugrue form. All right. We are moving on to it looks like Item 6.

MR. GERBER: Six.

MR. CONINE: We are going to 6A.

MR. GERBER: Mr. Chairman, Item 6A is a discussion and hopefully approval of Resolution 09-035, authorizing the Department to utilize repayments available from a prior down payment assistance program and repayments available from a prior 1991 home improvement loan fund program to provide down payment assistance to the remaining allocation of unassisted mortgage funds on the single-family mortgage revenue bonds 2006 series FGH part F68 and 2007 series B program 70 along with use of the first time home buyer tax credit of 2009 under the American Recovery and Reinvestment Act of 2009.

All of the assisted funds in program 68 and program 70 have been purchased. Approximately 2.2 million of unassisted funds remains in program 68 after 28 months of originations. Approximately 33.5 million of unassisted funds remains in program 70 after 18 months of originations. TDHCA's unassisted mortgage rate for program 68 is 5.65 percent, and for program 70 is 5.75 percent.

And currently, TDHCA's unassisted mortgage rates are out of the market, as unassisted rates are below 5 percent. Staff believes that by adding assistance to the remaining 35.7 million of unassisted funds in program 68 and program 70, those remaining funds will be utilized quickly by first time home buyers. Matt Poger, our Director of Bond Finance is here, as is Bill Dally. Anything you gentlemen would like to add?

MR. CONINE: Okay.

MR. GERBER: We think this down payment option will make a big difference to families being able to access first time home buyer funds, and we ask your approval of Resolution 09-035. And of course, this approval would be contingent upon the issuance of a mortgagee letter from the Federal

Housing Administration that would provide further guidance regarding monetization of the Federal Home Buyer Tax Credit for down payment and closing costs assistance.

MR. CONINE: Okay. Any other discussion?

(No response.)

MR. CONINE: I will entertain a motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: So moved. Move staff's recommendation.

MR. CONINE: Motion 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?

(No response.)

MR. CONINE: The motion carries. Item 6B.

MR. GERBER: Mr. Chairman, Item 6B is a presentation, discussion and approval of Resolution of 09-036, which would authorize us to do essentially the same thing in utilizing funds within the existing Mortgage Credit Certificate Program, to provide down payment assistance to eligible home buyers in conjunction with the Department's 2009 Mortgage Credit Certificate Program, along with the use of first time home buyer tax credit of 2009 that is provided under the stimulus act just passed.

In an effort to helping potential home buyers overcome the obstacle of saving for a down payment, staff is proposing a down payment assistance program utilizing up to $1 million from funds within the MCC program. Down payment assistance would be provided in the form of a second lien repayable loan. Funds would be available through December 1, 2009 to eligible borrowers on a first come first served basis, and would be used in conjunction with TDHCA's 2009 Mortgage Credit Certificate Program.

A total of 1 million is needed to provide down payment and closing costs assistance, which will be provided in the form of a second lien repayable five year loan, and the MCC program has $1 million available for this purpose. Anything that Matt, you or Bill would like to add to the mix?

(No response.)

MR. GERBER: With that, then staff is recommending the approval of Resolution 09-036 for that purpose, and then again also subject to the issuance of a mortgagee letter from FHA providing further guidance regarding the monetization of the Federal Home Buyer Tax Credit.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: Seeing none, I will entertain a motion.

MR. CARDENAS: Moved to approve.

MR. CONINE: Moved to approve by Mr. Cardenas. Is there a second.

MR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. 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 would like to take a moment, if I could, to thank staff for jumping through hoops to get -- obviously, what we are doing is trying to monetize the new $8,000 first time home buyer credit with our mortgage revenue bond program and our MCC program. You guys have done a great job in getting that done in a hurry, and we certainly appreciate all the efforts.

I will also mention to the Board and to those of us here, that the staff is also trying to figure out how to monetize the home buyer credit for the population in general of the State of Texas. And that is a little bigger chore, because of the funding prowess that it requires. But there can be no better assistance for our economy in my opinion than us being able to step up and do that. The staff is in an in-depth conversation with the Federal Home Loan Bank of Dallas to try to arrange some funding for that.

And we have got some other little wrinkles, if that doesn't work. Maybe they can figure out how to get it done. But suffice it to say that the citizens of Texas will be well served if we can put that thing together and hopefully by next month's meeting, we can bring it to you. But thanks to staff for doing what you have done so far. We really appreciate it.

(Applause.)

MR. CONINE: Okay. Item 7, Multifamily Housing Tax Credit provision.

MR. GERBER: Robbye Meyer our director of MF is going to come hobble forward and present those items.

MR. CONINE: One of those tax credit guys get to you, Robbye?

MS. MEYER: Yes, sir. Sort of. I wish that was it.

(Simultaneous discussion.)

MS. MEYER: Robbye Meyer, Director of Multifamily. In case you didn't realize, it is now tax credit season, from public comment this morning. So welcome to my world. We will start off. I wanted to give you just a brief overview.

Today you are going to hear several things that go on in the tax credit world. And we have amendments. And amendments are past awards that have been made, and they are coming to you to ask for changes to their applications. These don't affect -- normally, they don't affect other applications. But they are changing things in what they originally planned, and they do affect what they are doing.

The three before you today, amendments, we do have actually four in your Board materials. But one, we won't be covering, and that is the very last one on Chateau Village. But these are all bond transactions so we just need to work out the issues that are before you. We also have extensions.

And extensions can be either applications that are in process, and you heard a couple of those this morning, on extensions for the May 15 date that you imposed back in November. We also have extensions of deadlines and submission of documentation, things that they have to do after post awards. So you will hear extensions that come for multifamily transactions before you. And we have one of those today.

We also have appeals. And appeals can be either awards or current applications. Most of the appeals you will hear today are on current applications. And they do affect other applications that are in the cycle, and they do affect other awards. So that will give you a brief overview of the things that you are going to see today, and how they affect the cycle as we go along.

The first amendment that we have today is Lakeside Senior Communities, your 4463. This is a tax credit bond transaction that received housing tax credits from the Department. The owner has completed development and is requesting approval for the reduction of two two bedroom units targeted for tenants at the 60 percent of median income level.

The original application proposed 178 units comprised of 144 one bedroom units and 34 two bedroom units. The development was built with 176 units, comprised of 144 one bedroom units and 32 two bedroom units.

To mitigate the loss of the units, the development included additional features that were not originally in the application. These included granite countertops in the kitchen, wall mounted granite shelves in the bathroom over the sinks, included a spa in the clubhouse. Dual flush water saving toilets, tile walk in showers, thankless recirculating water heaters, decorative concrete pool deck, faux wood blinds, card control access into the clubhouse, and an irrigation system for landscaping and 126 additional parking spaces.

The unit sizes also were built, were larger than originally proposed, and the total net rentable area was increased by 8,298 square feet. It should be noted that the development has been the subject of numerous complaints by residents regarding the quality and condition of the units, and of some of the amenities that have been added, the poor quality of ongoing maintenance and lack of the owner's response to the tenant's concerns. The development currently has a low compliance score of ten, however, Compliance staff has required a significantly higher than normal level of monitoring contact, due to the lack of owner response to the tenant complaints.

Staff is recommending the approval of the request, because the reduction of the units would not have impacted an original decision to provide the determination notice for the tax credits associated with the bond transaction. And in addition, the extra amenities and the increased net rentable area do provide some measure of compensation for the reduction of the two units. However, staff does recommend the assessment of appropriate penalties for this developer, at the Board's discretion, since the written request is being made, after the completion of the development.

MR. CONINE: Okay. There is no comments on this. Any further questions of staff?

SPEAKER: [inaudible].

MR. CONINE: What are you trying to --

MR. GERBER: We have a comment from a legislator that Ms. Penado is going to read into the record.

MS. PENADO: Elena Penado, TDHCA Legislative Staff. Representative Crownover would like this letter read into record. Dear Chairman Conine: It has come to my attention that Richard Shaw has asked for an amendment for his development in my district, Lakeside Manor in Little Elm. As you consider this request, I wanted to share some background on Lakeside Manor that I have experienced within the past 18 months.

The residents at Lakeside Manor contacted my office over a year, and I remain in regular contact with them today. I have also taken the time to visit Lakeside Manor personally, and my staff has visited the development on multiple occasions. Before I address the concerns I have with the development, I would like to clearly state that Richard Shaw and his staff have always been attentive to my concerns, and I greatly appreciate their efforts to address them.

My experience and the information I have obtained regarding the development give me great pause regarding the request for the amendment Mr. Shaw is seeking today. The issue I have concern with is that Mr. Shaw is seeking credit for going above and beyond in some aspects in this development.

It has been my experience that management of Lakeside Manor does as little as possible to comply with the promises that he has made to TDHCA, the State of Texas and most importantly to the residents of the property. I feel strongly that it would be inappropriate for Mr. Shaw to receive credit or mitigation for going above and beyond.

When problems at Lakeside Manor are addressed, the quality of the workmanship usually evidences the most minimal of efforts by management. For example, during a TDHCA inspection to property, it was noted that additional sidewalks were needed to fully comply with accessibility requirements for the property. When this was pointed out, the additional sidewalks were added.

However, in more than one place, the in ground sprinkler system was in the right of way of the new sidewalk. Instead of removing the sprinklers, the sprinklers were simply paved over with the sprinkler heads sticking out of the sidewalk.

(Simultaneous discussion.)

MS. PENADO: Not only was this foolish, but it also created new accessibility problems, and the sidewalks had to be redone. The most egregious amenity claimed as an offset for going above and beyond is the installation of low flow toilets. I understand that low flow toilets are considered a positive in housing, generally. However the low flow two flush toilets installed at Lakeside Manor are not an amenity that any of the residents would consider a positive in their lives. Toilets are abnormally small and very low --

(Simultaneous discussion.)

MR. CONINE: Is this a seniors facility, or is this a family facility?

MS. PENADO: Very low to the ground. And this alone is particularly inappropriate for an elderly population.

(Simultaneous discussion.)

MR. CONINE: We may have to frame this letter.

MS. PENADO: I hadn't read this ahead of time. My apologies. Furthermore, plumbing issues at the property are an absolute number one concern of the residents. The toilets are constantly backing up and many residents do not feel that they have access --

(Simultaneous discussion.)

MR. CONINE: This is priceless. Nothing like constituent representation.

MS. PENADO: The toilets are constantly backing up and many residents do not feel that they have access to adequate sanitary bathroom facilities. There are only two problems that the residents of Lakeside Manor face on a daily basis. Those are only two problems. Other issues include drainage problems at the property, a lack of landscaping and amenities that are under repair more than they work.

Mr. Shaw has continued to work with the residents and with my office as issues arise. But I am concerned that for the long-term prospects of this development, particularly after tax credits are awarded. I would like to reiterate that Mr. Shaw and his company have always been responsive to my concerns about Lakeside Manor, and have made great strides in addressing these concerns.

However, I cannot in good conscience allow your Board to vote on this issue without consideration of the issues I have raised in this letter. Sincerely, Myra Crown over, State Representative, District 64.

MR. CONINE: Bravo.

MS. RAY: Mr. Chairman, is Mr. Shaw with us today?

MR. CONINE: I don't think he is here today. He probably could be encouraged to be here though, at the next meeting. I don't have any other witness affirmations on that one. Do I hear a motion?

MR. CARDENAS: Mr. Chairman?

MR. CONINE: Yes, Mr. Cardenas.

MR. CARDENAS: I would like to table this until we can get Mr. Shaw together with staff.

MR. CONINE: There is a motion to table. Do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Until the next meeting, right? Hopefully. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, out of curiosity, Ms. Murphy, have you been to this property? We will direct Ms. Murphy and her team to go out to the property before this item comes back to the Board next time.

MR. CONINE: Give me a call. I would like to go with you. It would be well worth it.

MS. RAY: Mr. Chairman, I would like to ask Staff one question about that particular one.

MR. CONINE: Sure.

MS. RAY: Because staff, in this particular case, staff recommended approval of this request, however they recommended assessment of appropriate penalties. I know that in some instances when changes were made before they came to the Board in some previous instances, it was because the rule for assessments of penalties came after the fact. And I think this is an '04 deal.

MS. MEYER: That is correct.

MS. RAY: Was the process for assessment of penalties in place in '04, when this property -- the changes were being made.

MS. MEYER: No. But they knew -- no, ma'am. It was not in place at the time when this was awarded.

MS. RAY: That is the only concern that I had.

MR. CONINE: Okay. Thank you. Next?

MS. MEYER: The next two amendments are from the same developer. The Coral Hills, the owner is requesting several amendments, and we have reviewed them all thoroughly. They are outlined in detail in your materials. I won't go through all of them. The staff has reviewed all of them.

However, on Coral Hills, after the publication of the Board materials, we reviewed the amendment request and contrary to the recommendation in your Board book staff now believes that all of the amendments are acceptable, so we are recommending that through the rehabilitation, the owner has converted two of the residential units into common areas, and one of those is a leasing office and one of them is a unit for their supportive services. Staff is recommending approval of that request.

However staff is also recommending that in the land use restriction agreement and the regulatory agreement, that they are required for those common areas, if they are ever used as rental spaces in the future, that they have to use them for restricted tenants. Staff is recommending appropriate penalties at the Board's discretion, since the request is being made after the development is completed.

MR. CONINE: I do have two witness affirmation forms on this particular item. Tom Champion.

MR. CHAMPION: I'm going to waive my time.

MR. CONINE: Excuse me?

MR. CHAMPION: I'm going to pass on my time.

MR. CONINE: You are going to pass on your time. Blake Brazeal.

MR. BRAZEAL: Mr. Chairman and the Board, I am Blake Brazeal. I am representing Summit Housing Partners. I am the President of the company. We are the owners and operators and managers of affordable and workforce housing in eight states. We have 15 properties in Texas. We are based out of Alabama, but we are heavily invested in Texas, and have done six community developments with Robbye and her staff.

And really, we are pleased with our relationship and would like to keep the relationship as it is. We would like to thank you all for working with us through the years. And in terms of Coral Hills, if that is what Robbye is recommending, we have no -- we are fine with that recommendation.

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

(No response.)

MR. CONINE: Thank you. Any further discussion?

(No response.)

MR. CONINE: Otherwise, I will entertain a motion.

MR. MUNOZ: Move staff recommendation.

MR. CONINE: Dr. Munoz has a motion to move staff recommendation. Do I hear a second?

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: The motion carries.

MS. RAY: We failed to deal with the issue of penalties in this case.

MR. CONINE: Okay.

MS. RAY: I would like to also hear from staff, whether the imposition of penalties when the changes were made after the fact was in place at the changes were made. I know we made that sometime in 2007?

MS. MEYER: No. It was not in effect at that time.

MS. RAY: It was not in effect at that time. Therefore, Mr. Chairman, I move that we do not assess any penalties for this project.

MR. HAMBY: Ms. Ray. Can I make a comment to that.

MS. RAY: Yes.

MR. HAMBY: Kevin Hamby, General Counsel. The 2006 QAP, which was approved in 2005, would have included the notice that amendments were going to be required for penalties. So before they started construction on this property, they would have had the notice that the 2006 QAP would have the penalties in place.

MS. RAY: That was my question that I wanted clarified. In that case --

MR. MUNOZ: Well, prior to beginning construction, they would have been notified, but not when the application was submitted.

MR. HAMBY: That is correct, Dr. Munoz. Because the '05 award would have been awarded sometime by the end of the '06 year. The '06 QAP would have been approved and in place.

MR. MUNOZ: So that when the application was submitted, it did not exist.

MR. HAMBY: When the application was submitted, it did not exist. Probably by the time the commitment notice and certainly by the time the carryover, probably they would have had notice.

MS. MEYER: That was a bond transaction.

MR. HAMBY: Oh, it was a bond transaction? I am sorry. Okay. So there wasn't a carryover on it. But they would have gotten notice in the fall of 2005.

MS. RAY: Before construction started?

MR. HAMBY: I would believe so, unless it was already under construction. Placed in the QAP. He said he didn't receive noticed, but it placed in the QAP and put out as a public rule.

MR. CONINE: Hearing no further motion, we will move on.

MS. RAY: Move on.

MR. CONINE: Move on, at that point to Village Park Apartments.

MS. MEYER: The owner is requesting again, several amendments and we have reviewed all of those amendments. And staff has determined that all of these substitutions are acceptable with the exception of the ceiling fans in the bedrooms. This was a requirement, a threshold requirement in the 2005 QAP.

Staff is recommending approval of all the amendments except for the ceiling fans. Again, we are recommending appropriate penalties at the Board's discretion. The owner does want to address the ceiling fan issue, if the Board will allow them to address that.

MR. CONINE: Certainly. I have a witness affirmation form here for him. Blake.

MR. BRAZEAL: Village Park is a property that we are proud of. We currently have close to 900 residents. It is 90 percent occupied which is ahead of the market, submarket. We are really proud of the community that we have built, the amenities that we have added. And in this particular case, we made a mistake, pure and simple. That was in the plan. It did not get into the scope.

The company takes full responsibility. I do too. It should have been in the scope. It did not get in the scope. When I learned of this in November, when I learned of it, we had this. We had been working with Robbye's staff, trying to work how we did this.

And I got a bid from an architect on what it would take to correct this issue. And it is $839,000. Because to run the ceiling fans into bedrooms at Village Park, we are going to have to wire and buy approximately 1,200 fans, and also put in 230 new circuit breakers. And it is just not set up to do that. And based on the -- I do have concerns with the residents, and what the imposition this is going to impose on them.

There are fans in some of the common areas in the apartments. But to go in on 900 residents and do this is a concern of mine. And I would like to -- everybody to take into account all of the different amenities that we have added to this property that were outside of the scope, which is a lot of items that we have worked with Robbye and her staff on, and are in the process of adding and have already added for the residents. So we made a mistake.

MR. CONINE: Quick question. That sounds like a pretty ferocious ceiling fan that you have got priced in there. If I go down to Home Depot or Lowes, for $39.95, you can get you a little cheap ceiling fan.

MR. BRAZEAL: Chairman, if I thought I could do that, I would do it. I got this from an architect who did this for me. And I am not an electrician. But most of this is costing us is the wiring of the units. The wiring of the panels.

MR. CONINE: So do I understand, there is no -- is there a requirement that we have on the threshold that it be in the bedroom, or can it be anywhere in the unit? It has to be in the bedroom. So you have got no light in the middle of the room?

MR. BRAZEAL: That is correct.

MR. CONINE: So that is the problem.

MR. BRAZEAL: And it is a real problem. And I will do what Robbye and everyone -- but for right now, for this property, $839,000 is a pretty big lick to have to come up with.

MR. CONINE: Yes. Sure. How many units have we got? Or how many bedrooms have we got?

MR. BRAZEAL: Four hundred and 18 units. And I have got -- actually, I will have to put up 1,394 fans. 72 of the fans have existing units that I can wire into. And I will have to --

MR. CONINE: Okay. Don't worry about that.

MR. BRAZEAL: Okay. And I will have to have 230 new electrical panels. And all fans will need new arc fault breakers. So we have tried to work around this. And I am willing to listen to anything. I would like for everybody to understand that it is going to cause an imposition at the property, and it would be a pretty big economic hit.

MR. CONINE: You could put a box fan in every bedroom a whole lot cheaper than that.

MR. BRAZEAL: Well, you know, you are kidding about that, but that actually crossed my mind a couple of nights to get on that. But I didn't think Robbye would go for that.

MR. CONINE: Well, with it being a threshold requirement though, it gives me a lot of gas. Any other questions that the Board may have up here, other than me?

(No response.)

MR. CONINE: Robbye, I know we have waived this in the past. I seem to remember one or two, very rarely. But it seems like we have in the past. Have we not? Under extenuating circumstances.

MS. MEYER: Under extenuating circumstances. In this case, they have a wiring issue. And that is part of the problem. They have agreed to do it over time, if the Board will allow that, set up a plan to do it over time. If the Board says it is a threshold requirement and that is what you want them to do, they are willing to do that. They just can't do it in a quick amount of time.

MR. BRAZEAL: Just got an economic --

MR. CONINE: Mr. Brazeal, what kind of time frame were you thinking along the lines of?

MR. BRAZEAL: Five or six years. That is about $160,000 a year.

MR. CONINE: Okay. Is -- right.

MR. MUNOZ: Do the units have central air, every unit?

MR. BRAZEAL: Yes.

MR. MUNOZ: Okay. So this would be in addition to the central air?

MR. CONINE: It is a threshold item for all of these things.

MR. BRAZEAL: And another thing, some of the ceilings are --

MR. CONINE: Could you speak into the microphone, please? Thank you.

MR. BRAZEAL: I am sorry. I figured you all could hear me. Some of the ceilings are a little lower too, on some of these. And we have had some concerns on the fans being in there too, on that, with bedrooms with kids too. I mean, that is another thing that has come up on this that we have discussed.

MR. CONINE: Let me maybe suggest Board members that this be another one that we table until we can think through this issue. This seems to be -- I have an appreciation for the architectural difficulties and engineering difficulties that he is having to do. Although given some time to think about it, maybe staff can come up with another recommendation that might, we can fit something else in there, or do another amenity that would assist the residents in an equal to or greater than fashion.

MS. MEYER: We can look at that.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move that we table this item in consideration of looking for a win win opportunity for the benefit of the residents as well as the benefit of the builder. We appreciate you coming forward and being forthright that it was a mistake. But it is a threshold item. And I think we need to look at that more closely.

MR. CONINE: There is a motion to table until our next meeting.

MS. BINGHAM-ESCAREÑO: Second.

MR. CONINE: There is a second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: I did have one more witness affirmation form that Tom Champion filled out. Are you okay?

MR. CHAMPION: Yes.

MR. CONINE: Okay. All those in favor of the motion to table until the next meeting, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Next one. Thank you.

MS. MEYER: Okay. The next item is for the Hyatt Manor application. This applicant came to you last month, and asked to be placed on this month's agenda, to be included with the other '07 applications that had waivers for the 2009 Qualified Allocation Plan. They are requesting to be eligible for the amnesty of penalties, even though they did not meet the requirements in returning their 2007 allocation by the January 2 amnesty date. And the other waivers that they are requesting are the use of the 2007 third party reports.

There are pre application points that they received in 2007 and there are fees that they paid in 2007 be credited for the 2009 application. Additionally, they have requested six points for green building items although they only supplied items worth two points in green building. Staff doesn't recommend awarding these points for the amenities because they didn't provide them. The Board previously denied other applications those green building points.

Staff isn't recommending the waiver of the rules. But if the Board does grant these waivers, staff recommends that the Board follow the previous waivers that they have granted so there will be consistency within the application cycle.

MR. CONINE: Okay. I do have a witness affirmation on this one. Dennis Hoover.

MR. HOOVER: Mr. Conine and the Board and Mr. Gerber. It is just as Robbye stated. This was an '07 application that we thought we had a deal with our syndicator. About the middle of January, late January of this year, he called and said, it is falling apart worse than what we thought.

And so I returned my credits and our HOME application on January 29, and just ask to be included with the other applications from '07 that had their application fees and all credited to them. Pre-app points, and the penalty points be waived. I dropped the green building points except the two that we scored.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. What is the Board's pleasure? Let me, Robbye, one quick question. He didn't have an application in the '09 round, but he gave up the credits in late January?

MS. MEYER: He resubmitted.

MR. CONINE: Oh, he did resubmit.

MS. MEYER: Yes, he has resubmitted an '09 application.

MR. CONINE: Okay. So it is a matter of just waiving the fees essentially, on this particular deal? Okay.

MS. MEYER: Well, waiving of the fees, the pre-application points, using his third party reports. The same global issues that you already did for the other 2007 applications. And the amnesty for not returning his credits by the January 2 date.

MR. CONINE: Amnesty. What a beautiful word. Okay.

MS. BINGHAM-ESCAREÑ0: I am just stuck on the green points thing. So our packet said that he was asking for six, qualifies for two, but Mr. Hoover said he is okay with the two? Is that accurate?

MS. MEYER: That is what he said. Yes. For 2009, there is actually, you can get a maximum of six points for green building, and he was just requesting the maximum points. But he only supplied items for two.

MS. BINGHAM-ESCAREÑO: Mr. Chair, I will move to grant the waiver.

MR. CONINE: With the two green points?

MS. BINGHAM-ESCAREÑO: With the two green points.

MR. CONINE: Great. 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 of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Seven C.

MS. MEYER: On 7C we have four appeals. We are going to take them out of order for you though, and we are going to replace two that are on your agenda with two others that were timely filed.

MR. CONINE: Now you are really confusing me. All right. Which one are you doing first?

MS. MEYER: We are going to do Canutillo Palms first.

MR. CONINE: Okay.

MS. MEYER: Then we will do Meadow Lake Village, which you have. There were two others that are on your agenda, which is Peachtree and Cottonwood. Those two are being replaced with Mineral Wells, which was in your packet that you received on the three day posting, and also Waterford Place. And you also received a separate supplement today for Waterford Place.

MR. CONINE: Okay. One at a time. Let's go.

MS. MEYER: Okay. Canutillo Palms. This is in regard to consideration, the question is, the appeal is regarding whether the application should be under the 2008 Qualified Allocation Plan or the 2009 Qualified Allocation Plan. It was actually an application that was funded out of the 2009 credit ceiling. It was a 2008 forward commitment.

The application was submitted. It was reviewed and awarded in 2008. It was on the 2008 waiting list. And it was granted a forward commitment in November of 2008. Because forward commitments are usually granted prior to the Board approving the Qualified Allocation Plan for the next years rules, the Department deems an application to meet the subsequent years rules at that time with the exception of any statutory requirements. It deems them to have met the next years rules, so that the application is not harmed.

So it goes by the -- let's see if we can try that again. It is deemed to have met the next years rules, having met the current years rules, to protect the applicant from any unknown requirements. The applicant is requesting to be considered under the 2009 QAP because of an addition in the

2009 QAP that allows a 30 percent increase in eligible basis for areas of high opportunity. And this is a new area that we added for the HR 3221.

All the applicants in the 2008 forward commitments are being consistently reviewed for under the 2008 rules. In addition, this application not only received the original allocation amount, but it also received the advantages afforded to all of the 2008 application which is the 9 percent applicable percentage rate, also the 10 percent cost increase adjustment.

The total allocation amount is $1,391,908. The underwriting report reflects the 30 percent additional credits being requested in this appeal are not necessary for the financial feasibility of the development at the syndication price that was provided to the Department by the December 2008 deadline. It was established by the Board for the forward commitments. The applicant is stating that the current credit price has changed from the price that was submitted in December.

Staff does not dispute the new information, however allowing the applicant to submit a change in the information at this time will open the door for every other applicant to request the same exception and to continually change their application through the process. The Executive Director has denied the appeal, and staff recommends the Board also deny the appeal.

MR. CONINE: Two witness affirmation forms. Peter McHugh and Bobby Bowling with some time donated to him.

MR. BOWLING: Sir, if you don't mind, I would like to go first.

MR. CONINE: You are going to go first. Okay. Mr. Bowling.

MR. BOWLING: Ladies and gentlemen, members of the Board, you have got the package of information regarding my appeal on this issue. I want to start out by reminding or refreshing your memory, this is well supported by the community, well needed housing in El Paso on this. Mr. Monty testified this morning.

Our City Council adopted a policy of fee waivers for multifamily development, including tax credit developments, to try to get them built in El Paso, to try to accommodate the base realignment and closure process, where we are getting 20 to 30,000 new troops at Fort Bliss. I want to just be real clear with what the issue is, so everyone understands.

Like Robbye said, it is a 2008 deal. The 2008 QAP, this is in a different census tract, or a different qualification than it would be in 2009. In 2009, this project under the 2009 QAP would eligible for a 30 percent bump. I don't know how many of the forward commitments actually fall into this category. None of my other properties fell into this category. I think it is kind of an anomaly.

I am, as Robbye stated, at some point in the process, if you refer to my letter from TDHCA on the Diana Palms subdivision or development from March 4, 2004, I mean, I will read you clearly from this. This is a 2003 forward commitment. And the letter from TDHCA directs me that the above referenced development must be consistent with the 2004 qualified allocation plan. And then they list six things that I must do in order to retain my commitment and to bring the project into compliance with the 2004 QAP.

From my perspective, when I got this news from the Department, I wasn't asking for really an appeal. I was asking for the same consistent methodology that was applied to my forward commitment in 2003, be applied to my forward commitment in 2008. Robbye mentioned, and it is in the staff report that it is not -- a statement of these documents of having satisfied the requirements of the prior years QAP gives the applicant the protection of not having to meet unknown requirements, in accepting an award prior to the publication of next years rules.

Well, I know what next years rules are, and I am asking you not to protect me from those rules. I would rather be fully in compliance with the 2009 QAP, including lots of the green building additions that are in there. I will bring my property fully in compliance with the 2009 QAP, not just with the threshold green building requirements, but also the maximum points in their selection criteria for green building requirements.

So I think you will get a better project if you apply the entire 2009 QAP to this deal. To respond to the projects changing and the equity price that I got in November and December was 76 cents. If you look at page 9 of the staffs underwriting report, they deem that the project is infeasible if the syndication price drops below 74 cents.

Well, that is where we are today. And my syndicator from the Richmond Group is going to follow me. That is who Peter McHugh is, and he will address that a little bit. But the prices we are looking at are around 66 or somebody testified 65 cents today in the marketplace. So this deal is not going to be feasible. I mean, we will try it until the end of May 15 or if you are going to consider the deadline, extending it, you know, or TCAP money. But this deal will work with the 30 percent boost with today's market prices.

And like I told Mr. Gouris before I came up here, when you all were on break, I will put it as a commitment, part of my commitment notice, I will not be asking for TCAP funds or ARRA funds on this deal with this 30 percent boost. I mean, you can make that a condition to this granting of this appeal. Because it will work.

And we have an investor, who is investing in one of our deals in the county of El Paso, a rural deal. And the price is 65 to 66 cents. And it works with the 30 percent boost. So that same investor wants to do Canutillo Palms, but he can only do it with the 30 percent boost.

Finally, if this appeal is overlooked, which I hope it is not, I would request like Mr. Monty requested this morning, an extension of the May 15 deadline, and possibly a consideration of TCAP or ARRA funds for the forward commitments. But I don't think that is going to be possible by the May 15 deadline, because you are still, as Mr. Gerber said, awaiting recommendations from HUD or directions from the IRS on how to apply that fund.

So that concludes my presentation. I would love to answer any questions, if anybody has got any.

MR. CONINE: Any questions of the witness? Mr. Cardenas?

MR. CARDENAS: Mr. Bowling, if we do the 30 percent boost, this project is ready to go?

MR. BOWLING: Yes, it is. Yes, sir.

MR. CARDENAS: And Mr. Richmond is here to tell us he is ready to go.

MR. BOWLING: Yes, sir. If you grant the boost, that will meet the May 15 deadline. Yes. I will have a signed LPA and a construction loan in place in three weeks.

MR. CARDENAS: Thank you.

MR. CONINE: Peter McHugh.

MR. MCHUGH: Hello.

MR. CONINE: Hello.

MR. MCHUGH: My name is Peter McHugh.

MR. CONINE: I always like to have a syndicator in front of me. Go ahead.

MR. MCHUGH: I was a little nervous coming up there.

MR. CONINE: Especially here lately. Go ahead.

MR. MCHUGH: Well, I work for the Richmond Group affordable housing corporation. We invest in tax credit transactions. And we have invested in 14 properties developed by Bobby Bowling and Tropicana Building Corporation. I am here to show my support for the Canutillo Apartment Complex.

We are presently working with Mr. Bowling on a couple of syndications of his properties. We have been fortunate enough to find an active investor willing to close on Mr. Bowling's properties now. We expect to close on one of his properties in San Rosario in the next few weeks. This same investor is also interested in the Canutillo property. But at the current market price, there is a large funding gap.

The San Rosario property is currently priced at 66 cents for the tax credits and we were able to make that property work without large gaps, because the San Rosario property received a 30 percent boost in tax credits. We have an investor ready to close now on the Canutillo property, provided that we can fill the existing funding gap.

I am requesting that you approve Canutillo for the additional 30 percent credits. It qualifies for it. So that we can close and get this property under construction. Thank you.

MR. CONINE: Mr. McHugh, I think that we asked for a reaffirmation on December 1, or by December 1 for credit pricing on these transactions and my understanding is you reaffirmed at a higher number than what you are affirming today. Is that correct?

MR. MCHUGH: It would have definitely been higher than what it is today. Yes.

MR. CONINE: And so what happened since December 1. How come the deal hasn't closed?

MR. MCHUGH: Mainly because of what is going on with the investment market out there. Most of the investors out there are financial institutions, large banks. And we all know what problems they are having. We had long standing relationships with those banks, but things just changed.

MR. CONINE: But you just stated that on December 1, that it was okay. So I would assume Bobby would have been ready to close by then? Did he have his construction loan in place on December 1, or what?

MR. MCHUGH: I know he was well into working on it, yes. We didn't have a partnership agreement signed or anything like that. But we were pretty well along.

MR. CONINE: Bobby, can you clarify some of my concerns?

MR. BOWLING: We didn't have a firm number at that time. The underwriting report wasn't complete on this project until March 31. So I had Peter saying, I have got an investor, I would like to pitch your deal. My lender saying, hey we would like to do the deal, but we need firm numbers. And I couldn't produce those until just three weeks ago.

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

(No response.)

MR. CONINE: Mr. Hamby?

MR. MUNOZ: Mr. Chairman, I have a question for Robbye. I can wait until you make your comment, Kevin.

MR. HAMBY: Members, I am deeply concerned about this. Kevin Hamby, General Counsel. If you are going to do this, you need to do it as an across the board exemption for everybody who has an '09 forward. And just start that boost. Because what you are doing, is A. Everybody will be in shortly, that even closely qualifies. So you are talking about a fairly significant boost. The only reason I am not saying, I don't think you can do it at all, is because you awarded everybody this opportunity that wanted to take it. But again, we had some of the amnesty, where you said, if your deal doesn't work, you can turn it in. If you told them they were going to be eligible for a 30 percent boost, some of those deals might have worked.

I mean, this is a real big case of putting the horse back in the barn, or closing the doors after the horses have escaped from the barn kind of thing. So I encourage you, if you want to do this, do it across the Board for all of your 2008 forward commitments that are coming in. And that is going to impact your dollars, I am guessing pretty significantly.

MR. CONINE: Well effectively, they would have to re-underwrite every one of them, wouldn't they?

MR. HAMBY: They will. It is a big issue. It is not a small issue. It is not a one deal issue. Because I would venture a guess, because this 30 percent boost is the subject of litigation in the State of Texas. The prior boost, because we didn't give boosts and we didn't give these incentives to other areas.

And it was part of the HERA act that we put it in this year. It did not apply at all in 2008. We were just awarded the ability to do so in 2008, in July of 2008, you were talking about making these awards. So I am not telling you can't do it, because we did everybody.

I think we have got some amnesty problems for the people who did return their '08s that these deals may have worked, that we may have some unfair treatment on it. But if you are going to do it, I would like you to do it across the board for all of the '08s that are currently sitting out there. Thank you.

MR. CONINE: Yes. I personally have a problem with QAP shopping, so to speak. And it is -- I just hate to open that can of worms. Do I hear a motion?

MR. MUNOZ: I was planning to ask Robbye a question. I think actually Kevin has responded to it.

MR. BOWLING: Is there a lot of deals in 2008 that fall into the 2009 -- I was under the impression that this may be the only forward commitment that is eligible for the 30 percent bump. Because my other 2008 deals were not. I mean, this is a rare occurrence. I want to make sure the Board understands that.

MR. CONINE: No, I think there was a slough of them, wasn't there?

MR. BOWLING: That are eligible for the 30 percent?

MR. CONINE: Yes. There is a slough of '08 deals that got '09 forwards.

MR. GOURIS: There were 18 that got --

MR. CONINE: Yes. That bunch.

MR. GOURIS: But some of them got -- already had the 30 percent boost, so they wouldn't be getting an additional 30 percent boost. Some of them may or not have been, now be eligible for it. But there are really two issue here. There is the 30 percent boost and then there is the using new information that wasn't available to the underwriter and met the deadline.

MR. CONINE: Yes.

MR. GOURIS: And so there is a second piece to this, and it is a theme for some of these others that are to be coming through as well, that the new information, if we are going to allow it for these should also be allowed for all the transactions, because some of their, the other ones that we met the deadline for December may have had a decrease in syndication rate.

MR. MUNOZ: Including those that have already received the

30 percent boost?

MR. GOURIS: Correct. Because all of them don't have the opportunity to provide a new syndication letter today that says it is less than what it was in December, if that is something that impacts them.

MR. CONINE: Yes. I guess I always prefer for the Mr. McHughs of the world to sharpen their pencils and get back to what they committed to do on December 1.

MS. BINGHAM-ESCAREÑO: Mr. Chair, I will move staff's recommendation.

MR. CONINE: Motion for staff recommendation to deny. Is there a second?

(No response.)

MR. CONINE: I will second it. 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?

MR. CARDENAS: Opposed.

MR. MUNOZ: Opposed.

MR. CONINE: The motion passes four to two, I believe. Let's see. What is the next one. Robbye. Or Sharon. Excuse me.

MS. GAMBLE: You get me this time, Mr. Chairman. My name is Sharon Gamble. I am the administrator for the competitive Housing Tax

Credit program for TDHCA. And I am going to be doing the next three appeals for Meadowlake Village and Mineral Wells Pioneer Crossing for Seniors, and the Waterford Place Apartments.

These are all in the three day posting that you got, and you also got an extra packet for the Waterford Place appeal. I wanted to before I begin, just kind of go back and reiterate a little bit about what Robbye said earlier. About the appeals and just have you keep in mind that they do -- these are for live applications that are in this cycle right now, in 2009. And so the decisions do affect the other applications.

And then also to let you know, that for all of these appeals, we terminated them. And when they appealed to the Executive Director, they submitted more documentation to help answer some of the questions that we had in the termination letters. And we very carefully reviewed the information that they submitted.

And some of the ones that were terminated submitted extra information with their responses to Mr. Gerber, and were able to correct the items in the termination letter to staff's liking, I guess. And so we tried to maintain flexibility, I guess, is our new word. So we tried to maintain the flexibility that you know, in this process also.

So the first appeal that we had was for Meadowlake Village. It is TDHCA number 09-137. The applicant is appealing the termination of the application. This application was terminated due to a missed deadline. Texas Government Code Section 2306.6724(d) requires that an applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in the calendar year must submit an application to the Department not later than March 1.

The Department's last business hour prior to that date was 5:00 p.m. on February 27 2009. This is a deadline for application submission set for in the 2009 Qualified Allocation Plan and rules, the QAP, in Section 49(a) which states that all required bonds must be submitted as required by the application submissions procedures manual, and fully complete for submission with all required copies an received by the Department not later than 5:00 p.m. on the date the application is due.

In this case, the applicant arrived at the application submission location without the required application CD rewritable disc, and was unable to locate a CD rewritable disc that was submitted for this application prior to the deadline. The applicant downloaded the application via the Department's file transfer protocol system at 11:50 p.m. on February 27, 2009.

The applicant asserts that since statute says not later than March 1, then their application was submitted on time. Staff disagrees with this assertion and believes that the deadline set in the QAP and in the ASPM is the proper deadline for a submission of the application. Even though the application was submitted after the deadline, staff did go ahead and review the application that was submitted vis a vis file transfer protocol system. I will just call that the FTP to stop the tongue twister.

We did review the application, and we found that the application contains critical omissions and inconsistencies. And you will, as the next two appeals come up, you will see that we have terminated other applications for this. It is a violation of Section 49.518 of the QAP, which states that a submitted application, excuse me. Which states that an application is ineligible for an allocation of Housing Tax Credits if a submitted application has an entire volume of the application missing, has excessive omissions of documentation from the threshold criteria or uniform application documentation or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department as determined by the Department.

If an application is determined ineligible pursuant to the subsection, the application will be terminated without being processed as an administrative deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in a determination letter to the applicant. So this applicant was terminated due to a missed deadline, but I would add that had the application been received by 5:00 on the day that it was due, it would have been terminated pursuant to Section 49.518 of the QAP.

We did, we received a letter. Well, I will just say that staff is recommending that the Board deny the appeal. We received a letter from Representative Betty Brown. And I will just read it into record.

I am writing to urge you to favorably consider the appeal pursued by Mr. Warren Maupin. The rescue of the Meadowlake Village Apartments is an important project for many families living in the rural area of Mabank. I fully support Mr. Maupin's efforts, and hope that a minor misunderstanding in the application's process would not prohibit the completion of this project.

MR. CONINE: Okay. I have got a couple of witness affirmation forms. Warren Maupin and Cynthia Bast.

MR. MAUPIN: Good afternoon, Mr. Chairman, Board.

MR. CONINE: Good afternoon.

MR. MAUPIN: Mr. Gerber. I am Warren Maupin. I am the developer of this property in Mabank, Texas. I wanted to give you a brief history of it. It is a 40 unit rural development property financed by USDA that we built in 1985. It is a rural rescue property. We applied in 2007 for credits, received an award that year for credits. And also we applied for the -- through Washington for the multifamily preservation and rehabilitation program. We received that from them, a debt deferral in approximately January of that year, but we were unable to close the deal prior to receiving that. So we got caught up in not being able to close our deal, like so many of these deals have. We returned our credits in September, and we filed for 09 forwards.

When we began to look at it further, we decided to withdraw our 09 forward, and apply for an '09, just a regular '09 commitment. So after I had done this twice, I didn't think I would have any problems on the third time. But we had some problems with the disc. I do not know of the part you talked about with the application not being worthy at the time. I had not heard about that. That is the first time I have heard that.

Our appeal is based upon the disc not being in the packet when I brought it here. It was in another packet, and along with being in another packet, it was mis-marked. But they tried to read that disc, and I was assured by staff that if it was readable, it would be considered. So I am asking you to grant our appeal in this case, and let this be considered.

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

MS. BAST: Cynthia Bast, Locke, Lord, Bissel and Liddell, representing the applicant on this appeal. As you heard, this is a rural rescue project in Mabank that has been in the works for a long time. It already has approval from USDA for the specialized below market financing. This project is deemed a rural rescue project, because it is at risk currently of default.

You heard a little bit about this story. What happened here is that this applicant hired a consultant to help with the tax credit application. That consultant did three applications this year. One I will call Gateway, one I will call Holland, and this one, Meadowlake. She saved all three applications to a disc. And then she took those discs to another computer to open them, and confirm that they were readable.

When the discs arrived in Austin, the Gateway disc was unreadable. That application was terminated for that, and then was reinstated on appeal for the technological difficulty. As it turns out, and unbeknownst to the developer, the consultant made an error, and she mis-marked the Meadowlake disc and she put it in the Holland package.

And finally, to compound the problems, this mis-marked and misplaced disc turned out to be unreadable just like the disc for Gateway. So the bottom line here is that three discs from this consultant made it to Austin on filing day before 5:00. Unfortunately, the disc from Meadowlake was mis-marked, misfiled and unreadable. And once the problem was known, the applicant did work quickly to at least download the application to the Department's server.

We are not asserting that because it was downloaded at 11:50 at night, that that is adequate to meet the March 1 deadline. I am not sure where that assertion comes from. The consultant is absolutely overwrought. She is very concerned that this will prohibit this applicant from moving forward with this rural rescue project that has been in the works for quite a while.

So in summary, this is an application that this Agency has seen before twice. They have already granted relief on the situation of another unreadable disc prepared by the same consultant. The USDA is ready to fund this application. And we hope that you will find that therefore, there is a compelling interest to reinstate this application and allow it to continue with the competition. Obviously, we are not asking for tax credits today, we are merely asking to stay in the game, and respectfully request that you grant the appeal.

As to the comments with regard to whether the application itself was sufficient, as Mr. Maupin indicated, we don't have any notice of that. But we do believe that it could be addressed. There were some deficiencies found in the Holland application as well, and those have been addressed already. So we are confident that if this is reinstated and there are any problems with the Meadowlake application, that those can be resolved. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

MR. GERBER: Mr. Chairman.

MR. CONINE: Yes.

MR. GERBER: I don't know if you have other witnesses that want to come up and speak?

MR. CONINE: No. Not on that one.

MR. GERBER: This was a difficult appeal to review from my standpoint. There were the other cases that Ms. Bast talked about. There is the commonality of the consultant. And this consultant has had issues in previous rounds as well.

It is not -- the process and the integrity of the process means that we have to have some assurance to have the right materials so that we can, staff can do its work. It has got to be submitted to staff on a date and time certain. Yes, we tried a little bit of a more sophisticated process where we had things submitted using a different approach, a more high tech approach. Nonetheless, the idea that stuff got brought to us at the last day, in the last hour and then staff is sent off on a scavenger hunt to try and go find materials is really problematic.

You know, whether you approve the appeal or not, I think that just the general message of the date is the date, and the time is the time. And it is very hard for staff to get its work done with the expectations that I think the housing community as a whole has of staff, if we don't have the assurance that you know, we are going to get the materials that we need by a date and time certain. This is just a very complicated process, and whatever happens, I really would urge the consultant involved to really spend some time with us to make sure she has a handle on it before she submits any more applications to the Department.

MR. CONINE: Any other questions?

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move staff's recommendation to deny this appeal.

MR. CONINE: Motion to deny. 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: The motion carries. Ms. Gamble.

MS. GAMBLE: Sir, our second appeal is for the Mineral Wells Pioneer Crossing for Seniors, TDHCA 09-227. The applicant is appealing the termination of the application. This application was terminated due to a violation of Section 49.518 of the 2009 QAP, which states that an application is ineligible for an allocation of housing tax credits is a submitted application has an entire volume of the application missing, has excessive omissions of documentation from the threshold criteria, or uniform application documentation or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department as determined by the Department.

If an application is determined ineligible pursuant to the subsection, the application will be terminated without being process as an administrative deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the applicant.

The initial staff review of the application revealed the application to be ineligible for consideration because the omissions paired with the clarifications or corrections required rendered the application so unclear, disjointed or incomplete that a thorough review could not reasonably be performed. The applicant appealed the termination to the Executive Director, including updated items that were indicated as deficient in the termination letter.

Staff reviewed the items submitted with the appeal and determined that numerous items were still missing or incomplete and that a thorough review could not reasonably be performed. Staff recommends the Board deny the appeal.

MR. CONINE: Okay. I have two witness affirmation forms. Noor Jooma and Cynthia writers cramps Bast.

MS. BAST: Cynthia Bast of Locke, Lord, representing the applicant in this appeal. And Mr. Jooma is with me here today. This is an application for 36 units for senior citizens in Mineral Wells. Mineral Wells is a town of about 17,000 people. Where 20 percent of the citizens live below the poverty line. Yet this town has only 112 tax credit units. And of course, they all remain occupied.

You are actually going to hear two appeals this afternoon with regard to Mineral Wells. And I just wanted to explain that briefly to alleviate any confusion. In 2007, this developer identified Mineral Wells as a community with a significant need for affordable housing. He submitted a tax credit application in 2008, and it was awarded a 2009 forward commitment. That project is called Pioneer Crossing. And it is 80 units for families. It has an underwriting appeal and you are going to hear that later.

So as Mr. Jooma got to know the Mineral Wells community, he identified that there was also a need for affordable housing for senior citizens. And therefore in 2009, he submitted this application. He found a terrific site, just a half mile from the family site, near a public library and near a school, where he could locate 36 units, again, called Pioneer Crossing, but this one is for seniors. And this is the one for which we have the appeal of the pending 2009 tax credit application.

These two applications in Mineral Wells are Mr. Jooma's attempt to come into the tax credit world. So we have got to give him some props for courage, for jumping into the fray here, at this time. What you heard from staff was that the application for Pioneer Crossing Seniors was terminated because of insufficient information that made the application difficult to review. In terminating the application, TDHCA did provide the applicant with a list of items that were deficient.

And all of these were capable of easy resolution, and in fact, could have been handled as administrative deficiencies. So the applicant appealed the determination and submitted almost all of the items listed as being deficient. There were 30 items I believe in the letter of deficiency. 25 of them were handled like that.

However, the Executive Director did deny the appeal citing five items that remain missing. And I will take Mr. Jooma's time. Of those five items, which I would say are not numerous, that remain missing, two of them were actually submitted with the original application. And I did verify that. So I think there may have been an error there, that we can work out. Two of them have been corrected and are available.

The last item is in progress, and can be available within a day or two. So this is not a situation where there is a volume missing, or the application is so disjointed that it is incapable of comprehension. It is simply a situation where some things were inadvertently omitted, or incorrectly presented. They could have been corrected as administrative deficiencies. Virtually all of them have been corrected now.

And we believe that staff does have an application that it should be able to proceed with. So we are asking you to reinstate the application for Pioneer Crossing Seniors. Allow it to move forward in the competitive process. There is a tremendous need for this housing in Mineral Wells, including we have a letter of support from the Mineral Wells Housing Authority verifying that these 36 units for seniors are very much wanted and needed.

And we will hope that you will give this application a chance to serve that need. Thank you. And if you have any specific questions about the five items listed in the Executive Director's letter, and his response on the appeal, I am happy to address any of them.

MR. CONINE: Any questions of the witness?

MS. BINGHAM-ESCAREÑO: Mr. Conine.

MR. CONINE: Ms. Bingham.

MS. BINGHAM-ESCAREÑO: Could Robbye or Tom or Sharon just clarify the discrepancies there. I heard Ms. Bast say maybe five outstanding, two submitted, one can be worked out. That is still not five. And then our Board notes have the original letter had 27. Our Board notes have that there were a remaining six, maybe. I guess I just want to know, is staff's opinion that there is still five or six items that haven't been clarified?

MS. GAMBLE: Staff's opinion is that there are five or six items that haven't been clarified. I am frantically trying to find that letter.

MS. BINGHAM-ESCAREÑO: That is okay. That is all I need to know.

MR. CONINE: Okay. Any other questions?

MR. GERBER: And staff would just note also that the issues are in our opinion, not minor. We really did try to take, given the circumstances in the housing market and the challenges that are in place to get housing on the ground. We try to take a liberal view, as we looked, as I looked to granting appeals.

And there were just some applications that we just didn't figure that we could get across, given the amount of staff time that it would take and given the disjointedness or lack of clarify that was present in the application when they were submitted. I believe in this particular case and I haven't had discussions with the applicant, but some of the biggest concerns really centered around not really understanding fully or having a clear picture of what it was that he is trying to build. And not having a real picture of the costs which are required to be submitted to the Department at the time of application.

And so we have struggled with that. And they weren't clarified. Sharon, I don't know if that has gotten better in your discussions with the applicant. And certainly, I applaud the applicant for trying, and being a first time person coming into the program. It is a tough program. And we need new participants in it.

That said, I wonder if there has been anything that has substantially changed since this material was posted in the Board book that would -- led you to believe that you would get material that you would have confidence in, in a very short period of time that would be workable.

MS. GAMBLE: I haven't received anything else since they responded to your response.

MR. CONINE: Yes, sir.

MR. JOOMA: My name is Noor Jooma, and I am the applicant for Mineral Wells Pioneer Crossing. After receiving the termination on five items, two of the items we have already submitted in the application; that was the zoning hold harmless letter, there is two items that are ready to be submitted.

One item should be ready in the next day or two which is the only thing left on there, was the CPS letter for the site work costs. And that is an item that I did not know had to be certified by a certified public accountant. Besides that, I have turned everything in. Everything had -- a few items had already been turned in, in the past.

MR. CONINE: Okay. Any other questions?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I commend Mr. Jooma for stepping into the tax credit business. And you can tell from this exchange, it ain't no playground. It is not fun, sometimes. The issue as I see it, is adherence to deadlines and following the rules. And it is a hard lesson to learn. However, in consideration of all of the other applicants in the program, I recommend that staff recommendation to deny this appeal.

MR. CONINE: Motion on the floor. Is there 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. Which one is next. Ms. Gamble? Waterford?

MS. GAMBLE: The last appeal is for Waterford Place Apartments, TDHCA 09-279. It is for the same issue. I won't read the QAP reference again, but it is Section 49.518 of the 2009 QAP.

Again, just initial staff review found that the application contained the omissions and needed clarifications and corrections that rendered the application unclear, disjointed and incomplete that a thorough review could not be reasonably performed. And staff recommends that the Board also deny this appeal.

MR. CONINE: I have got two witness affirmations. Ryan McCord and Cynthia Bast.

MR. MCCORD: Good afternoon. Ryan McCord with McCord development. Just to give you a little bit of background on our company, and then I want to talk about the project a little bit and address the deficiencies or the omissions in the application, specifically. McCord Development is a company that my father founded in the early 70s.

In Houston, we have over a three decade long track record of very successful urban renewal type of developments, both in high rise commercial and the CDB of Houston, suburban, as well as in the affordable housing arena. However, this is our first time doing a low income housing tax credit application. And I know that grace wasn't given to my prior speaker, so I don't expect it. But there are a few unique circumstances with respect to Waterford Place.

Number one, it is acquisition rehab. It is not a new construction. It is not where you can take a set of plans and rubber stamp it.

Some of the deficiencies talked about billing numbers not being consistent. Well, before we put this under contract, a couple of the buildings burned down. So you have a different number of buildings, and you have numbered building on a site plan.

And my sense from looking at the list of issues is that staff threw their hands up and said, this person doesn't even know how many buildings they have. We actually do know exactly how many we have.

But that issue aside, one of the things that we really incurred some blood sweat and tears on, with respect to Waterford Place was getting the support of the local community. And I know you hear that a lot. And you even have public officials coming. Well, this is located in the Spring Branch area of Houston, Texas. And I don't know if you are familiar with that area at all. But they have a long, I would say over a decade long track record of being strongly opposed to tax credit development, whether it be new development or acquisition rehab.

And we had to initiate effectively a grassroots effort to get the support of the superneighborhood which we actually did receive. I have e letter from the President of the superneighborhood. And we also have a letter from the City Councilwoman, Tony Lawrence here, if you all care to see them. But they were, I believe, in the application. And we had to spend an inordinate amount of time to do that.

Some of the other inconsistencies in the application, specifically, you know, net rental areas and stuff like that, since this is again, an existing development, I guarantee you, if each of the Board members went into a unit and measured it, we would all come out with different areas for that. I think that there needs to be a little additional grace given for a rehabilitation of a 546 unit urban infill project, that you know, again, this isn't where you take a set of plans off the shelf, or a prior pro forma and stick it in the application, I mean, you have to really go back, recreate something from scratch, trying to measure from something existing.

And I understand, Ms. Ray, the importance of submitting the materials on time and in a complete fashion. And I will just say this. That the ability to review and make sense of the materials is a little bit of a -- or I should say, whether you feel able to review and make sense of the materials is a little bit subjective. It is not completely objective.

And after we submitted this application, we actually took it and reviewed it with various city officials and other potential tax credit and lending investors, and none of them really had any issues whatsoever understanding what our plan was, what the sources and uses looked like, or what the pro forma was. So I don't know exactly what led to the issues with the staff deeming it unreviewable. But you know, in the private sector we never really met with that kind of resistance. Sorry. I guess --

MR. CONINE: Go ahead. You have got Cynthia's time. Go ahead.

MR. MCCORD: I have got two more minutes. So anyway, I am asking for a little bit of additional grace here. I did admit that our application was not submitted perfectly. But when you look at the list of items that were mentioned, there was only two omissions, I believe, and everything else was submitted. Maybe not in the correct format, or maybe some of the numbers didn't tick and tie precisely. But it was certainly, in my opinion does not deem this application unreviewable or difficult to interpret what we are trying to do, which is to renovate an existing urban infill.

And one last thing that I will leave you with, is that this property is currently affordable housing. It is owned by a 501(c)(3), who has a CHDO property tax exemption. One of the benefits to the community, to the school district, to the state, county and city is that it will go back on the tax rolls if our application is successful.

And again, as Ms. Bast indicated earlier, I am not here to ask for tax writs, although I would like to. We are here just to ask that our application be heard and reviewed, so we have that opportunity to position this property for long-term viability in this urban infill community that is highly unlikely to ever see new affordable housing developed here. And that is all I have to say.

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

MR. MCCORD: Can I say one thing?

MR. CONINE: Sure.

MR. MCCORD: We did, we received the first letter of deficiency on the 27th of March with I think, maybe 27 or 26 items on it. We had to respond to it by the third of April. So we got the letter on the 27th. My first born came on the 29th. And we submitted all of our application items or what we thought were answers of them on the 3rd.

So I would ask you this, if they were that serious or difficult to address you know, how would we be able to turn them around given those events. And the second letter, the denial from the Executive Director, we received on the 15th with I believe, five or six items, and we were asked to address those by the 16th, again, the following day, which we did. And we have sent all of these items in. So all of these items are in compliance.

And so I would argue that we are -- that our application subjectively, I would say, was reviewable from the beginning and that these are deficiencies that obviously have been and could be corrected very expeditiously.

MR. CONINE: Okay. Any other questions. Ms. Gamble, do you have a followup or anything?

MS. GAMBLE: Well, I would just like to point out, and I think that this is the case in all of these applications, it is a couple of times that we have heard that these were issues that were very easily fixed. And my only counter to that would be, if they are things that are very easily fixed, then they should have been submitted properly when the application was submitted. And these aren't small items.

Again, we review these things very carefully. And they are not just very -- you know, there are items on there like, you didn't initial this form. That is not the reason that the applications were terminated. The applications were terminated because of the significance of the omissions. And that is what staff would just like to --

MR. MUNOZ: Sharon. That is certainly not the impression that I am getting from these folks, who say that it could be corrected that easily, and that these are all minor things.

MS. GAMBLE: Well, if in our review, we cannot --

MR. MUNOZ: That are so minor, that the window of time that you require them to respond is a day. So to me, I may interpret that as you also recognizing that they are fairly simple to respond to by giving them such a small window.

MR. GERBER: Well, let me respond to that. I think it is simple if you know the project. It is not simple for those of us who are coming along and reviewing literally scores upon scores of volumes that come into the Department, and have to be dealt with in a timely way in order to be able to do the due diligence that is required by multifamily in a fairly short period of time so that it can be tossed over to Brent Stewart's shop and Tom Gouris to do the underwriting, to make sure that the deal is viable, all within these prescribed windows.

There is a very narrow amount of time. And part of this private public partnership depends on the public part of it, doing what we need to do in a timely way for all of those folks who have the deals that are behind this one.

MR. MUNOZ: So what you are saying Mike is, that sort of the brevity of time is not indicative of the simplicity of the issue, but rather the pressure on you to expedite review of that application and all others.

MR. GERBER: Well, it is that as well as the seriousness of the items that are missing. Our ability to underwriting the deal depends on having a thorough understanding of what is involved in the transaction at all levels. And it is not even just being sure that we understand what the units are and what the costs are. It is being sure that this project is going to be successful and survive over a 30 year period.

And that is just a tremendous undertaking in such a short window of time. And so given that, plus all of the challenges that we all see in the housing market already, it is really incumbent on the public side to ramp up to do our job well, and to meet the challenge. And I think we try hard to work with developers and have a process that has a -- I mean, these are folks that you see today, these are folks who are burning up the lines with us, and who are in the offices working through issues day in and day out.

This very narrow band of instances that you are seeing -- again, I took, I was very liberal in trying to go and approve of deals. If there was any hope in trying -- in fact, I got a stack of them, and I told Robbye and Tom to go back and scrub them again. And then after that, we did it the third time.

This is a narrow band of stuff that we just did not think, that given the amount of time that it was taking, that it was fair to -- you know, there is always another deal right behind this one. There is not going to be a problem in finding someone else who -- with an equally worthy population to go and receive these credits. So our challenge is, trying to work with a partner who at this point in time, has what we need in order to get them across for the '09 round. And in this case, unfortunately, we didn't feel like we could do that with this particular applicant. And we wish that wasn't the case.

And I am very familiar with Houston and Spring Branch, having grown up there. And if we could get a deal done there, that would be a wonderful thing. But this is just a -- this has been hard on all of us.

MR. CONINE: Any other questions or comments?

MS. RAY: In regard to the shortness of time.

MR. CONINE: Yes, ma'am.

MS. RAY: I was referring to my calendar here. Because it does sound like it is a quick turnaround from the 27th of March to the 3rd of April. That gives you a full week and a weekend to get this information.

And if it was just a minor omission, that was available at the time that the deadline should have been met, you should have had an opportunity to put the information in. So I stand by my previous position, that timeliness is important. And I stand with the staff recommendation to deny the appeal.

MR. CONINE: Motion to deny. 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 of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 7D.

MR. GERBER: Mr. Chairman, Item 7D is Encino Point, which is a tax exempt bond application that is requesting 4 percent tax credits from the Department. The Capitol Area Housing Finance Corporation is the issuer of the bonds. This is a priority two application, proposing the new construction of 252 units in San Marcos that will target the general population.

In addition to the Housing Tax Credits, the applicant has requested $3 million in HOME funds to be structured as a soft second lien loan as repayable from available cash flow. This structure is not allowable under the current HOME NOFA. However, the underwriting report indicates that the development can support the HOME loan with a hard repayment as required by the NOFA at an interest rate equal to the long-term applicable federal rate.

Therefore, staff can recommend the HOME award, based on the underwritten hard payment structure. The Department has received a letter of support from County Commissioner Karen Ford, and Judge Elizabeth Sumter and the Department has received no letters of opposition. We are recommending the issuance of a determination notice in the amount of $1,033,705 in housing tax credits and recommend that the Board approve a HOME rental housing development award of $3 million subject to the terms reflected in the underwriting report, including a hard HOME loan repayment, a hard HOME loan payment structure.

MR. CONINE: I have six witness affirmation forms. Only three of you are going to get a chance to speak. And you can figure out how you are going to do it. George Corale, Debra Guerrero, Jim Shaw, Barry Palmer, Tama Dula and Tim Leonard. Look who is coming.

MR. PALMER: Thank you. Good afternoon, Board. my name is Barry Palmer with Coates, Rose. I think that I have time ceded to me by one of the other speakers.

MR. CONINE: You have five minutes.

MR. PALMER: Okay. I would like to address today a critical issue in connection with the proposed closing of the private activity cap bonds and the 4 percent credits on Encino Pointe in San Marcos. We have the same issue on Woodmont and Mariposa which will be coming up at the next agenda item.

And this is an issue that we have been before the Board on several occasions to discuss, which is the issue of structuring a subordinate gap financing of the TDHCA HOME and Housing Trust Fund. The gap financing of the HOME and Housing Trust Funds have been applied for and recommended by staff on Encino Pointe and Woodmont. However, the terms of the recommendation would make us unable to close our financing and unable to close the transactions.

Each of these projects are tax credit bond transactions. And the TDHCA staff underwrote Encino Pointe and Woodmont on the basis of receiving the maximum 60 percent tax credit rents. Unfortunately, our lender, Freddie Mac who will provide the credit enhancement has underwritten the deals using 55 percent AMI rents in order to provide a 10 percent market rate differential on the rents.

And using the Fannie Mae underwriting approach, they have determined the projects cannot close with the debt as hard debt, and it must be soft debt payable out of cash flow. So the issue isn't whether or not

TDHCA will be repaid or not, because under both TDHCA and the developer projections, it shows that TDHCA actually gets repaid more quickly using a net cash flow amount at a higher interest rate as opposed to amortizing the debt on a hard payment.

In fact, the staff's underwriting shows that there is 6.4 million of cash flow generated in the first 15 years of the project, and there is only 2.2 million of the payments required under the HOME loan. So and even if these projections are too optimistic, we have restructured our debt with Freddie Mac to protect your subordinate position so that the credit enhancement is for 30 years as opposed to 18 years. So and it is amortized over 35.

So at the end of the bond term, there will just be a nominal amount of debt due on the first liens, so surely there will be value in the property to repay the TDHCA at that point, if not sooner, from cash flow. And I would like to point out that under TDHCA existing guidelines, you do allow soft debt for the HOME and Housing Trust Fund if it is subordinate to FHA financing.

And in this case, we have Freddie Mac financing, but now Freddie Mac has been taken over by the federal government. So there really isn't any logical reason to allow soft financing if you are going with FHA but make it hard if you are going with Freddie Mac. So I would like --

MR. CONINE: Could I stop you there for just a minute?

MR. PALMER: Yes.

MR. CONINE: The two programs are so totally different, they don't even -- they are like apples and oranges.

MR. PALMER: Well --

MR. CONINE: Just because you say government, doesn't make them the same.

MR. PALMER: But --

MR. CONINE: They are underwritten totally differently.

MR. PALMER: They are underwritten differently. But there is really no reason for allowing the debt to be soft on an FHA loan and hard on a Freddie Mac loan. I mean, why should that make any difference?

MR. CONINE: Probably if you went and got an FHA loan, the amount of funding on the latter would be significantly less, instead of Freddie Mac. Go ahead with your presentation. Don't let me interrupt you. But you are not making a whole lot of sense to this Board member.

MR. PALMER: Well, and I would like to point out that in most of the entitlement jurisdictions that we work in, the HOME funds aren't structured on a soft basis. And the TDHCA is going to need to address the same issue on the TCAP funds that are going to be coming up now, that in order to fill the gap on tax credit transactions, the TCAP funds will need to be structured on a soft financing basis, or they are not going to be successful in filling the gap.

And again, there doesn't seem to be a logical reason to have the TCAP funds on a soft basis, and the HOME funds on a hard basis. So the TDHCA will be repaid their funds using a cash flow model. It is just that it will allow these transactions to close, whereas using the hard debt payment, we are unable to close with our senior lender. Thank you.

MR. CONINE: Mr. Leonard. You have three minutes, unless someone is ceding time to you.

MR. LEONARD: Mr. Chairman and Board members, thank you for your time. My name is Tim Leonard with MNA Financial, and I am the Freddie Mac lender on the Encino Pointe project, as well as Costa Mariposa and Woodmont, which are under consideration subsequently.

Just to echo what Mr. Palmer said, given the fact that Freddie Mac is now under federal conservatorship, the ability to get a waiver of credit underwriting policies has basically been eliminated. Said plainly, you know, everyone at Freddie Mac is scared of their own shadow, and no one is willing to put their signature on a credit exception that would end up in front of a federal regulator.

MS. RAY: [inaudible].

MR. LEONARD: I am sorry?

MS. RAY: Nothing.

MR. LEONARD: As a result, they are holding firm to their standard of a combined debt service coverage ratio of 1:10 when combining first and second mortgage debt service if the second mortgage debt service is hard. And there is just simply no way to waive around that structure. A year ago, we could have got it done all day long, as is evidenced by the fact that you know, there were 50 bond deals done in this state in 2006, versus a handful last year, and only three in front of you for consideration.

A couple of other reasons I think the Board should consider making these funds soft, is I believe that the use of soft financing in conjunction with taxes and bonds is by far the most efficient way to leverage your precious resources. If you compare the amount of soft HOME funds, or HOME funds that these projects are requesting, we average about 9,000 a unit in HOME financing.

The HOME financing that has been approved by the Board on a regular HOME awards is about $27 million, creating only 654 units of housing. If you use the same ratio of HOME funds that we are requesting, you could create over 3,000 units of housing or an additional five to one leverage of housing unit creation. So I think these projects deserve consideration of an exception to Board policy because of the exceptional leverage that you are getting out of your precious HOME dollars.

Several other reasons to consider this request is whether or not you structure your HOME award as hard or soft, you know, would the Board really exercise a second mortgage lien at the cost of having to pay off the entire first mortgage lien plus prepayment penalties, plus termination fees, in order to protect the second mortgage position. I think that is highly unlikely. And in the HUD transactions, that you execute on a soft basis, you are subject to a complete standstill agreement where you don't have the ability to foreclose, even if you wanted to. You have waived that ability.

And to answer your question, Mr. Chairman, given where we are in the market today, on an FHA financing, you are really not going to raise any more proceeds, tax exempt versus a Freddie Mac. Tax exempt long fixed rate bonds, when including MIP and an all in rate, is going to be just north of 7 percent or right at 7 percent on a 40 year am 1:11 coverage, whereas a Freddie Mac is a 1:15 coverages, 35 year am, but using a variable rate bond with a swap brings your effective rate down to about 6.35, 6.40.

So you really are comparing apples to apples from a leverage perspective, which is historically not been the case. But we are in a very unique environment in the tax and bond world right now. I just wanted to bring that to your attention.

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

(No response.)

MR. CONINE: Thank you. One more. Ms. Guerrero. Gets the winning draw.

MS. GUERRERO: Hello, my name is Debra Guerrero. Sorry. Debra Guerrero -- it's been a long day. Debra Guerrero with the NRP Group. And we really appreciate your patience in listening to our appeal today. And just very quickly, in terms of Jim Shaw and myself, we have been on the road now for eight months, talking about Encino Pointe in Hays County. We have worked with the community.

We have gotten support from the county judge, from the County Commissioner, from the City of San Marcos, even though it is right outside their limits. They have agreed to a development agreement for this particular development. But what we wanted to do is to show you what it means, in terms of jobs, and the flexibility in the funds that you already have that translates into jobs. The National Association of Homebuilders back in 1996 created a model that showed what the impact of affordable units would be; the construction of affordable units.

I need to let you know that we have our building permits in hand. We are ready to go. We have got -- I am sorry. You said something? We are shovel ready. We are hammer ready. We are ready.

And in terms of a one year impact in the first year, we are talking about 359 jobs. Construction jobs, what they do is they break it down into 16 different categories, to show what the ripple effect is, of the construction of these 252 units. It also translates into 19 million in income.

In terms of recurring impact, we are talking about $5 million each year in recurring impact, as well as about 92 jobs. And I think this is important. We all believe that this is important. Because the flexibility with the money that you already have now, can be used to truly create jobs. And all we are asking for today is the opportunity to do that. So thank you very much.

MR. CONINE: Where did Mr. Gouris go? Can you, why don't just comment on their overall comments relative to what you heard versus what you recommended.

MR. GOURIS: Tom Gouris, Deputy Executive Director for programs. This is sort of a clash of underwriting criteria, if you will. Staff works with the underwriting criteria that you all approve, and approve on an annual basis. The big issue here really gets down to serviceable debt and why it is serviceable or not.

I am not sure what makes Freddie work and why they would be real concerned about our second lien situation in requiring a firm repayment. But we believe based on the criteria that we used that the rents that can be achieved are greater than the rents that Freddie is allowing them to underwrite or allowing them to be underwritten at. And that is the significant difference between how Freddie is looking at this, and how we are looking at it.

You know, it is an ongoing issue for us to have HOME funds, significant amounts of HOME funds allocated or funded in cash flow type situations. They are difficult to monitor we rarely get any recovery from them. And clearly, we know that this transaction, we believe, and they agree, I think, that this transaction can service the debt.

It is just that Freddie has the issue or is telling them that Freddie has the issue. And this is the case with several of the upcoming transactions. So is that -- do you want more detail?

MR. CONINE: Yes. No. I just, is it your experience that FHA is not doing that sort of stuff these days, based on other loans you have seen come through? And I understand the difference between debt service coverage ratio and so forth. But the rents is a big deal.

MR. GOURIS: Yes. I haven't seen a lot of FHA deals come through. But there aren't a whole lot of bond transactions being done. I haven't spoken with Freddie specifically to get their angle or their side on this, and know if that is what it is. But historically with FHA, you know, there wouldn't have been this kind of an issue.

In fact, there wouldn't have been this kind of issue with Freddie, with regard to the rents, that Mark had said he clearly indicates that the rents are achievable. Freddie is just very cautious, sees our funds as being soft funds, should be soft funds, and doesn't see why we should be -- I think, doesn't see why we should be requiring a hard repayment, even if a hard repayment might be possible. Again, it doesn't impact their lien position. It only -- well.

MR. CONINE: It just appears to me that by choosing a particular first lien source that may have tougher underwriting standards than others for whatever reason, I mean, we are all going through tough times. But it forces us to acquiesce in a manner that you know, if they went with somebody else, they might not. Is that correct?

MR. GOURIS: That is correct.

MR. CONINE: Get where I am coming from?

MR. GOURIS: Yes. I get where you are coming from. I can't say, I can't speak for FHA to tell you that they would be jumping all over this deal, or any other lender out there. But I would imagine that, I mean, My understanding is that they are still making loans. They still want to be moving forward, and they wouldn't --

MR. CONINE: Now explain to me the difference between your firm repayment request and give me the annual debt service on your firm repayment request. And the difference between that and what they are asking for, and what is modeled in their pro formas with the Freddie Mac loan, and what available cash flow would be there to repay us?

MR. GOURIS: Their Freddie Mac loan debt repayment would be just over a million dollars. And $18,000.

MR. CONINE: Annually?

MR. GOURIS: Annually.

MR. CONINE: Okay.

MR. GOURIS: Our HOME hard debt payment would be $147,000.

MR. CONINE: Okay.

MR. GOURIS: Our projection, again, the difference is in the NOI. And we project about $230,000 to $240,000 more in NOI than what they are projecting, based on using the lower -- most of that is based on -- in fact all of that is based on lower rents, because we used higher expenses than they did.

MR. CONINE: But in a perverse sort of way, if they were able to achieve full 60 percent rents, wouldn't we be getting paid more under the soft scenario, under a cash flow mortgage, than we would under 65 percent underwriting firm?

MR. GOURIS: Sure, if we had a way to control expenses. Historically, we don't have that opportunity to control expenses. And what pro forma expenses are, and what real expenses are have a lot to do with --

MR. CONINE: Oh, you mean they miss it every now and then?

MR. GOURIS: We don't have control over management fees or other fees that might be charged or assessed.

MR. CONINE: But we would if we wrote that in, would we not? I mean, we could lock in management fee, I know.

MR. GOURIS: I would imagine would be having more heartburn with that, if we were trying to tinker with the details of how they are going to operate their operating expenses.

MR. LEONARD: Freddie is not going to agree to a management fee that the Board dictates.

MR. CONINE: Right. Tough call.

MR. GOURIS: It is a tough call. But it is --

MR. CONINE: I happen to believe that over the next few years, they are going to be able to get the 60 percent rents. I mean, that is --

MR. GOURIS: It is a significant issue because there are other developments that at least submitted for HOME funds that at least on submission have indicated to us that they can in fact make repayment to the HOME funds. And you know that has been a challenge of ours, to try to ensure, based on policies set by the Board to try to make sure that if that is possible, that that is done.

This is a situation where, I am not even sure that they are contending that it is not possible. They are just contending that their lender is saying it is not possible.

MR. CONINE: I know these guys are shovel ready and ready to go. But I think I need a little more information on the difference between what Freddie Mac is asking for these days, and what FHA is actually asking for these days. And a comparison. So can we -- would a 30 day, between now and the next month, can we get a little more information and have staff review that and come back again next month to give us a little better highlight on what is really available in the marketplace out there?

MR. GOURIS: Timing has always been an issue for these transactions.

MR. CONINE: Well, this is starting the 150 day window, is it not?

MR. GOURIS: No. This is the final underwriting.

MR. CONINE: No? Oh, it is the final one.

MR. GOURIS: And they have been extended, and we have been told on numerous, last month and prior month that Freddie is not going to extend further; Freddie is not going to extend further. They are not willing to move forward.

MR. CONINE: Are they being horsey with us these days?

MR. LEONARD: Well, I think the issue, Mr. Chairman, is that --

MR. CONINE: Come on up, Tim.

MR. LEONARD: The issue is that I would ask anyone to challenge us, there is no other option. Fannie Mae, the only way to do a tax and bond deal efficiently these days from a debt perspective is to issue variable rate bonds with a swap. The fixed rate market, as you know, has been the administer of many hundreds of millions of dollars of single-family bonds as just debt.

So if you try to do a fixed rate deal, your coupon is going to be so much higher, your net interest rate than through Freddie Mac that the deal is not feasible to begin with. Freddie is really the only option. And I wouldn't take it as Freddie is trying to jam something down your throat. I would take it as we are victims of the credit crunch that we are in.

And the fact that Freddie is under the federal conservatorship of the government, and Freddie is not and has never traditionally been a lender to try to put you on the spot and play who is the stronger party. They normally have been very flexible, and easy to deal with, but given the conservatorship, no one is willing to make a decision to waive outside of policy.

So I would argue the fact that the staff's underwriting, if the staff, if we meet in the middle from the State's perspective, the cash flow is there to pay the debt service. Freddie's perspective as the senior lender is you never want to be in a position to underwrite a deal or to leverage a deal so significantly that it is inevitable that per their underwriting, the subordinate lender will go into default. Ultimately, that is going to allow the State to be wiped out. No one is talking about lien perfection or lien priority here.

MR. CONINE: Right.

MR. LEONARD: We don't want to be in a position where we underwrite a deal so aggressively that has hard debt service payments that the property runs into some trouble, some new competition comes in the market, your loan goes into default, we immediately foreclose. So it is almost like the State is slitting its own throat in a way.

And it is a tricky innate scenario. I am clearly not trying to say that the policy you know, doesn't make sense for all scenarios. But clearly in this scenario, it makes sense for you to acquiesce to Freddie to get the housing built.

MR. CONINE: Okay. Let me suggest this, Tom. Would it makes sense to create a soft second from this standpoint by eliminating the variable fees, to agree to a percentage for management fee, tax credit syndication, you know, there is all kinds of little rinky dink fees that can get slipped in here, up to the number of which your hard second payment would be.

And so that we can get, I guess, a priority of that cash flow more, from a cash flow standpoint, then allow the other fees to kick in if warranted, and expenses. And then get the rest of the cash flow after that? I mean, I think that to me sounds like a reasonable alternative to something that we can at least see if we -- try one and see if it works sort of scenario. Does that work?

MR. GOURIS: It is certainly something that we can try to get done. Again, it is a requirement. All of the parties would have to agree to that.

MR. CONINE: Right.

MR. GOURIS: But something that we could try to figure out.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: I think I have sufficiently complicated the issue enough. I will see if I can make a motion. Yes?

MR. GOURIS: Cameron mentioned to me that the amount of funds that would be left available, about $12 million for HOME funds.

MR. CONINE: Yes.

MR. GOURIS: This transaction and another one of the transactions that you will hear in a minute represent about half of the amount of funds that are available. We have got applications of about $36 million. So $12 million in funds ,to last $36 million in requests. Just to give you kind of a framework for that.

MR. CONINE: What town is this project in?

SPEAKER: San Marcos.

MR. CONINE: And do we have a syndicator that is quote, ready to go?

MR. LEONARD: Bank of America is committed to the financing, at a very aggressive tax credit price.

MR. CONINE: How would you define that right quick?

MR. LEONARD: The other developments would lynch me if I told them. But it is 83 ½ or 84 cents, which is -- and they have held that price, which is pretty incredible.

And to rebut what Cameron said, I would once again reemphasize that the leverage that they are requiring on a per unit basis here, is $9,000 a unit, versus an average of $45,000 a unit, if you bring another deal. And the precious resource, it is about leveraging. This is a great way to do it.

MR. CONINE: Okay. I would move we approve subject to again, in the loan and second lien loan instrument, fixing the variable fees associated with the transaction, until we get the first -- what was the number you had, $100,000 something.

MR. GOURIS: One hundred forty-seven.

MR. CONINE: Yes. And then allowing those variable expenses to have priority then, and then we get the cash flow after that. Subject to all of that being worked out with the lenders and the borrowers and everything else. Mr. Palmer?

MR. PALMER: Mr. Conine, the fees that you are talking about, they would be fees to affiliated parties, as opposed to the electricity bill, for example.

MR. CONINE: Yes. I don't think I need any more of a motion than that. Do I hear a second?

MS. BINGHAM-ESCAREÑO: 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: The motion carries.

MR. GERBER: Mr. Chairman, Item 7E is the possible approval of a Housing Tax Credit extension on 07-189, Sunlight Manor Apartments. The owner missed the December 1, 2008 deadline to submit commencement of substantial construction for this project. The owner will submit the full commencement of substantial construction documentation by March 31 to the compliance division for review and approval.

The owners extension request included all documentation necessary to comply with the requirement, and therefore staff is recommending approval of the extension as requested.

MR. CONINE: Do I hear a motion.

MR. MUNOZ: Move staff recommendation.

MS. RAY: Second.

MR. CONINE: Motion by Dr. Munoz. 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: The motion carries. I have a witness affirmation form from a Steve Moore that wanted to speak on 7D, the Premier Apartments, and I don't see that on my agenda, so I don't know how I can do that. Hang on. Is that correct? I mean, I don't see how I can do that, Mr. Moore, since it is not on the agenda, so we will have to talk to staff about that later. Moving on to 8A, please.

MS. MEYER: Eight A is a tax exempt bond issuance that is requesting issuance of tax exempt bonds along with Housing Tax Credits, HOME funds and Housing Trust Fund. It is the Woodlawn Apartments. This item relates to the tax exempt bond award, the housing tax credits. It is a Priority Three transaction where the Department is the issuer of the bonds. They are proposing 252 units of new construction for Fort Worth, serving the general population.

The applicant is requesting the approval and issuance of a variable rate tax exempt bond in the amount of $15 million with Bank of America will provide the equity as well as a credit enhancement through a letter of credit during the construction phase. Freddie Mac will provide the credit enhancement for the bonds during the permanent phase, and MMA Financial LLC will be the lender. The owner will be seeking a full property tax abatement through the ownership of the Fort Worth Housing Authority receiving the tax abatement, will be a significant difference in the financial feasibility of the development. If at least a 50 percent tax abatement is not granted, the development will not be financially feasible.

A public hearing was conducted by the Department for the proposed development on October 28th. There were approximately 21 people in attendance. The majority of those in attendance were in support of the development, however there were some comments that were made in opposition. Those comments included that there were many vacant apartment units already in the area that were run down, there would be too many low to moderate income individuals concentrated in one area.

The road that the property is located on is already congested and dangerous. There is already a lack of employment opportunities in the area, and crime and noise, and air pollution will increase. The Department has received a letter of support from Representative Lon Burnham, four letters of support from local businesses, and a petition in support with 142 signatures. There is no letters of opposition that have been received. Cameron Dorsey is going to speak on the HOME portion, and the Housing Trust Fund.

MR. DORSEY: The applicant has also requested $u316,000 in HOME funds to be structured as a soft third lien loan that is repayable from available cash flow. This structure is not specifically disallowed under the HOME persons with disability NOFA. This is just for your reference, as opposed to the previous one we heard, the persons with disability NOFA that I am talking about closed in October, so this is an application that has kind of been around in our offices for a little while, trying to get everything together.

So we didn't have a provision specifically in that NOFA to disallow cash flow debt, although I will say that the Board's policy at that time was consistent with what it is now. The applicant is also requesting $460,000 in Housing Trust Fund, also structured as a soft loan repayable from available cash flow. The Housing Trust Fund NOFA however, does require a repayable loan for staff to make a recommendation, a favorable recommendation.

In addition to the Department's HOME and Housing Trust Fund requests the applicant is also requesting HOME funds from the City of Fort Worth in the amount of $1.5 million. The City of Fort Worth is requesting a superior lien position for their HOME investment in the transaction. However, the City of Fort Worth funds are proposed to be structured as a soft loan, therefore payable out of cash flow.

While the applicant has requested a cash flow structure for the HOME and Housing Trust Fund loans, from the Department, the underwriting report indicates that the Department's funds can be structured with hard payments in order to meet the Housing Trust Fund NOFA requirement, and the Board policy regarding cash flow debt. The pro forma also indicates the ability to support the $1.5 million Fort Worth HOME loan as hard debt, and the debt coverage ratio requirements of the Department are met.

If the Board approves the HOME and Housing Trust Fund loan structures as underwritten, staff recommends the Department funds carry superior lien positions to the City of Fort Worth funds, or that the City of Fort Worth funds have a hard amortization, a hard payment. The owner will be seeking a full property tax abatement through the ownership of the Fort Worth Housing Authority.

We are seeing that a tax abatement makes a significant difference in the financial feasibility of the development. If at least a 50 percent abatement is not granted, the development will not be financially feasible. Staff recommends the Board approve the issuance of up to $15 million in tax exempt multifamily housing revenue bonds, Series 2009, and $1,029,811 in housing tax credits. Staff recommends the Board approve the HOME request for rental housing development funds for persons with disabilities of $316,000, structured as a fully repayable loan at AFR over 35 years.

Staff recommends the Board approve the request for a Housing Trust Fund Rental Production Program award for $460,000 structured as a fully repayable loan at AFR over 35 years. Additionally, staff recommends the Department funds carry superior lien positions to the City of Fort Worth funds. I think again, in this case, very similar to the last one, we are underwriting to rents that are higher than what Freddie has accepted.

MR. CONINE: Have you talked to Fort Worth yet, by chance?

(No audible response.)

MR. CONINE: Okay. They are here. Or somebody is going to speak to that? Okay. Charlie Price, Debra Guerrero, George Correl, in whatever order you would like. I don't have Barry Palmer on here. This one? All right. Go ahead. I am sure I will find it in my mess, somewhere. Here it is. I found it.

MR. PALMER: The issues on the HOME funds and the Housing Trust Funds are the same as Encino Pointe. We would ask for the same resolution to allow the transaction to go forward. The only difference on this deal from Encino Pointe is that we have the City of Fort Worth's HOME funds as well. And so we probably should have the representative from the City of Fort Worth talk about that issue.

MR. CONINE: Okay. Would that be Charlie Price by any chance?

MR. PRICE: My name is Charlie Price, Housing Program Manager for the City of Fort Worth. Thank you, Mr. Chairman and Board members to listen to me for just a little bit. I will try to be quick. The City of Fort Worth has been working with NRP Group on the development site located at Oak Grove and Interstate 20, in the southeast part of our town.

NRP Group has requested $1.5 million from the City of Fort Worth from its HOME entitlement, which happens to be about half our entitlement for the whole year. To help cure the gap created when the equity markets went upside down, this last year. We did look at this transaction earlier, and we didn't see the equity gap. Now we see the equity gap.

We are in the process of making our recommendation to the City Council and have determined that our funds will be the second largest debt instrument on this piece of property. And we feel like we should be in second lien position, since we are the second largest debt instrument on this piece of property.

And of course, that is contrary to your staff recommendation, but we are asking you basically to say basically logical sense, we would be the second lien position since we are putting the second most amount of money in there. In addition, we are basically foregoing $250,000 a year in property tax revenue on this piece of property.

Now you may say, why are we trying to do this? Well, this part of town has been historically underserved. But now that we have a VA clinic right to the east of it being built, bringing in 250 good paying jobs, we have transportation with I-20 and 35 right there, and on the bus line, education with Tarrant College within a mile. And medical within a mile with JPS clinic. We feel like this is a great development for this part of town.

This historically is not a very well served part of town. So that is why we basically said we are going to put 1.5 or half of our HOME entitlement into this project. We feel like it is a good endeavor.

Now let's speak about soft seconds. In the past, we would agree with staff that we wouldn't do a soft second either. We would be part of the payment process, or we would even get our money back even sooner. But with the equity markets going upside down, we have come to the determination that we are going to have to be in soft seconds to get projects going, to get housing built for our citizens of the City of Fort Worth.

We have always had a great relationship with the Department. And we feel like without you guys, we wouldn't build more of our apartments in the City of Fort Worth. And we just want to say we appreciate your help so far. And please look at this as a partnership. Because remember, we are putting quite a bit of funding into this also. Thanks.

MR. CONINE: Thank you. Any questions Of Mr. Rose -- Price, excuse me. Charlie Rose. Isn't he a TV guy? Sorry about that. Okay. Debra, are you next? George?

MR. CONINE: You don't have to do the job.

MS. GUERRERO: I just want to show you the Board only because I made it for you.

MR. CONINE: That really is sweet.

MS. GUERRERO: Debra Guerrero for the NRP Group. Because again, it is about the jobs. It is about the jobs again. We have our permits. We are ready to go. And the collaboration with the City and with the community and now with the State in getting this development going. So thank you.

MR. CONINE: Thank you. Tom? Or Cameron, do you want to speak to the City of Fort Worth's comments?

MR. DORSEY: Sure. I mean, from our perspective, since the NOFA and the Board policy, the NOFA for the Housing Trust Funds and since the Board policy for our Department's funds in general is to require a hard payment, it just makes sense for us to be in a superior position to a piece of debt that is cash flow. To the extent that the Board would like to do something similar to what they did on the previous bond transaction, then we can certainly do that.

And to the extent we did that, you know, it does make some sense for the City to have a superior position if we are both cash flow, because of their greater amount of funds in the deal. It is just you know, if we are going to have a hard payment, it doesn't make sense for us to be behind someone with a cash flow payment.

MR. CONINE: Well, this one is different from the standpoint that we are a third instead of second. And when someone ahead of us has a cash flow mortgage, we end up with zip.

MR. DORSEY: That is right.

MR. CONINE: So I guess I need to talk to Fort Worth to see if he might limit his cash flow mortgage to a number that would appease the Department as well as the underwriting that Freddie Mac is doing on the first. And that number would be?

MR. GOURIS: Well, I think the same issue exists, although we haven't discussed it yet. I think Freddie is saying that both should be cash flow because they don't see the ability to have either of them be --

MR. CONINE: Well, I can have it. I don't care about Freddie. If I can have a deal between the City of Fort Worth and the State, what do I care about them for?

MR. PRICE: We are okay with you guys getting paid before us, as long as we have the second lien position. I have too many bankers and lawyers on my city council.

MR. CONINE: Too many bankers and lawyers.

MR. PRICE: They can take less than a second lien position.

MR. CONINE: So, I mean, help me here Tom, with the numbers. That is what I need help with, because I don't have the numbers in front of me.

MR. GOURIS: The first lien debt service is about $1,097,000.

MR. CONINE: Yes.

MR. GOURIS: The second lien debt service, the Fort Worth debt service is about 87.

MR. CONINE: Well, I think what he just said, is we can have all the cash flow if he can have the second lien, which I kind of like. I think I would go for that.

MR. GOURIS: Ours would be $40,000 and the cash flow after all is said and done, and debt services paid would be $294,000.

MR. CONINE: Okay.

MR. GOURIS: Yes, sir.

MR. CONINE: Can you work that out.

MR. GOURIS: Can we work that out?

SPEAKER: Yes, that is fine with us.

MR. CONINE: Okay. Thank you, Fort Worth. I will make that as a motion. Do I hear 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: The motion carries. One more, it sounds like.

MS. MEYER: Seems like the same song. One more, Costa Mariposa. This one is another fund issuance with the Department. They are requesting -- it is a new construction in 252 units of new construction in Texas City that will serve the general population.

The applicant is requesting the Department's approval in issuance of variable rate tax exempt bonds in the amount of $13,680,000. Bank of America will provide the equity as well as a letter of credit during construction and Freddie Mac will be the credit enhancement and debt conversion. The structure is similar to the prior transaction. And it is the same developer.

One difference, this has 50 percent tax abatement. There was a public hearing that was conducted by the Department for the proposed development on November 20. There were approximately 56 people in attendance. The majority of those in attendance were in support of the development; however, there were a few comments made in opposition. Those comments include, property values of the surrounding homes will decline, ongoing long-term maintenance of the property, and whether or not there is really a need for the additional apartments in the City.

The Department has received a letter of support from State Senator Mike Jackson and Jeffrey M. Cravey, President of the Galveston County MUD 66 and no letters of opposition have been received. Cameron will discuss the HOME award for this one.

MR. DORSEY: All right. The applicant is requesting $3 million in HOME funds from the Department and has requested that the HOME funds be structured with a soft payment.

MR. CONINE: Really.

MR. DORSEY: This one is akin to the first one more than it is the second one

MR. CONINE: Right.

MR. DORSEY: In the sense that it is from that same NOFA that does in fact have a provision in it that requires staff to recommend only transactions with a hard payment. However, staff cannot -- let's see. The underwriting report indicate that only $645,837 of the $3 million request is repayable at the Department's minimum debt coverage ratio of 1.15. So on this one, we actually agree with Freddie. I think we are in agreement.

And as a result, we really can't see how this could be structured as a hard debt payment. As a result, when you hear my recommendation it is going to be not recommended for all of the funds, here in just a second. Should the Board consider approving the application, the Board should consider that the Department currently has $34 million in applications and only approximately $12.6 million in funds as Tom mentioned earlier.

Moreover, while staff has not completed reviews of these applications, it does appear that the vast majority suggest that they can support the debt with the required hard payment structure. staff recommends that the Board deny the request of a HOME rental housing development award of $3 million for Costa Mariposa.

The requested amount of HOME funds is not projected to be repayable within an acceptable debt coverage ratio, and in accordance with the HOME NOFA, staff will not recommend to the Board any contingent payment loans. Staff also recommends the Board deny the issuance of up to $15 million in tax exempt multifamily housing revenue bonds, Series 2009, as well as the applicant's requested $975,006 in housing tax credits, due to the infeasibility of the transaction without the requested HOME funds. Should the -- we have an alternative scenario if you guys would like to hear it.

MR. CONINE: Sure.

MR. DORSEY: Should the Board award funds to this development, the Board must waive its rules for the issues related to the HOME funds listed above, or stated a moment ago, and such award should be conditioned upon the following: an allocation of housing tax credits not to exceed $975,006 per year for ten years. The issuance of an amount not to exceed $15 million in tax exempt multifamily housing revenue bonds, Series 2009, and a HOME award not to exceed $3 million to be structured with $654,837 as a fully repayable loan bearing interest at AFR and a 35 year amortization, and the remaining $2,345,163 structured as a soft loan. You all may want to consider doing it, so that we are ahead of the --

MR. CONINE: Like we did the first one.

MR. DORSEY: Like the first one.

MR. CONINE: Yes. Okay. Once again, Debra Guerrero, Monique Allen, Don Robinson, George Corale, Barry Palmer, only three of you. Barry Palmer.

MR. PALMER: Barry Palmer with Coates Rose. This is really the same issue as the first two, except that staff is recommending turning it down as infeasible, if you use the hard payment. But if you convert it to a soft payment, then the project is financially feasible. The underwriting shows that the money can get repaid over 15 years.

So, if we can just do the same payment program as we were doing on Encino and Woodmont, this transaction is feasible. I would point out that this is in Galveston County. And this would probably be the only chance this year to do a deal in Galveston County. So I would hope that the Board would take that into consideration in this request. Thank you.

MR. CONINE: Ms. Guerrero.

MS. GUERRERO: I -- two points I need to [inaudible]. I don't have a board. I apologize.

MR. CONINE: You don't have a job board for this one? Hold up one of those others. I won't know the difference.

MR. LEONARD: I don't have a board or anything else to really say.

MR. CONINE: Okay. Then sit down.

MR. LEONARD: Thank you.

MR. CONINE: I have got two questions. One is, the tax credit syndication rate similar?

MR. LEONARD: Yes.

MR. CONINE: On this one as the other one?

MR. LEONARD: Yes.

MR. CONINE: Same investor? Second question for staff, when we do variable rate debt like this, do we have to provide liquidity facility, or this counts against our liquidity facility or not? It does not?

MR. LEONARD: Freddie Mac provides it.

MR. CONINE: They do.

MR. LEONARD: Absolutely.

MR. CONINE: Not us?

MR. LEONARD: Absolutely.

MR. CONINE: Okay. Thank you. Monique.

MS. ALLEN: I guess I get my two minutes. I am Monique Allen. I am the President of UPCDC. And everybody said everything you wanted to know about except one thing. And I don't have a board like Debra had, but what she showed you is pretty much what we think will happen.

There are two things that I do want to talk about. One is that as you know, it is very difficult to find an area in Galveston County that doesn't get neighborhood opposition. And this one really didn't. And also, it is next to a hospital and a college. And my experience is that we will see employees from the hospital want to rent close by.

And the other thing I want to just touch again, I said no board.

We think about 325 jobs will be created with this project. And considering it is in the hurricane area, I think this is a very important consideration. Plus, we are very fortunate, we are going to have the Barbara Jordan, as part of our service, Job Center there. So I think this merits a good look. Thank you.

MR. CONINE: Thank you, Monique. Any other, did I miss anybody?

(No response.)

MR. CONINE: Okay. And staff is okay with structuring this one similar to the way we did the first one, if I made that motion? Where you cap the fees and create the soft.

MR. DORSEY: The full 3 million and not the $645,000 as a hard payment. The other as a --

MR. CONINE: No. We can do the hard. I don't mind doing the hard if Freddie doesn't mind doing the hard. Does Freddie have any objection to that piece of it being hard on this one?

MR. LEONARD: No. Whatever size is up to a 1:10. If they --

MR. CONINE: Okay. All right. Then I would go with the staff recommendation on the first piece. And go with the deal like we did on the soft deal on the 2 million four, whatever it is.

MR. GOURIS: The difference between this one and the first one was that underwriting doesn't believe that the entire $3 million can be repaid. And so the first one, we believe that it could.

MR. CONINE: Mr. Palmer just testified the whole 3 million would be repaid in 15 years.

MR. GOURIS: That is not what our underwriting reflects.

MR. CONINE: Really. Well, how short is it? $5.79?

MR. GOURIS: Our underwriting reflects that there is a million seven in cumulative cash flow, and there is even with our $3 million, there is about a $3 million deferred.

MR. CONINE: Say that again?

MR. GOURIS: Is that what you have? There is a million seven in cumulative cash flow, 3 million four in deferred, in addition to our $3 million HOME funds. Is that right, Robbye? Okay.

MR. CONINE: Say it one more time, slowly, because I am slow.

MR. GOURIS: Our underwriting reflects that the 15 year cumulative cash flow is a million seven.

MR. CONINE: Okay.

MR. GOURIS: That still leaves 3 million four in deferred fees, deferred contractor and developer fees that would have to be repaid. So there is not enough funds to fund that.

MR. CONINE: Got it.

MR. LEONARD: Mr. Chairman, the cash flow is there to service the debt, just not to repay the entire debt. So it is not like you have a non-current accumulating obligation.

MR. CONINE: Yes. But the other two, the pro forms gets us paid back within the 15 years. This one doesn't.

MR. LEONARD: Right. And we have agreed to increase our credit enhancement to 30 years so there is no balloon risk on the first debt.

MR. CONINE: Yes.

MR. LEONARD: So at the end of the day, we are basically paid off at the end of the 30 year term. You are sitting there holding the land and improvements, which has to have some value.

MR. CONINE: And does the deferred stack behind us at that point, or not?

MR. LEONARD: I am sorry. Say it again?

MR. CONINE: Is the deferred behind us at that point, or not?

MR. LEONARD: The deferred developer fee is paid off by year 15.

MR. CONINE: It is paid off by 15. So we still have got the asset at that point, though. Right?

MR. LEONARD: That is right.

MR. CONINE: Okay. Then my motion would be the staff recommendation for the hard 647 whatever it was, and the soft at 2 million-three-something and structure the fee in house and everything like we did the first one. Is that okay? I think that will work.

MR. LEONARD: Yes. We will have do a 1:10 which is I think is the way the math works. That works for us.

MR. CONINE: Okay. Is there a second?

MS. BINGHAM-ESCAREÑO: 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: Opposed?

(No response.)

MR. CONINE: The motion carries. Go on to 8B.

MS. MEYER: This is a bond inducement that we have. This is for the one application that we will reserve approximately 15 million in 2009 State Volume Cap. This is the first application received for 2009 program year. Willow Oak proposed new construction development in White Settlement will consist of 100 units and will target general population.

The development has been presented to staff as an assisted living development licensed by the Department of Aging and Disability Services, with participation in the community based alternatives program. The development is expected to serve persons within Tarrant County who have a disability and a need for assistance with the activities of daily living such as bathing, dressing, meal preparation, housekeeping, medication management, et cetera.

We have detailed several concerns that the staff has with this particular transaction. We have detailed them out in your Board material, so I am not going to read all of those. But we have several concerns with the timing of the financing structure and also having 100 percent of the units restricted and not having any of the market rate units to give them any flexibility. We have concerns about them violating the Andrade Housing Rule, and also a possibility of violating the general use provision.

Staff is still recommending the Board approve the inducement resolution and letting them move forward, but we are also strongly encourage the applicant to become familiar with the rules, regulation and limitations on the funding sources involved prior to submitting the complete tax credit and bond application to the Department.

MR. CONINE: I have two witness affirmation forms here. Vaughan Mitchell and George Littlejohn.

MR. LITTLEJOHN: Mr. Chairman and members of the Board, Mr. Gerber, my name is George Littlejohn. I am a partner with Novogradac and Company. And we represent and have worked with the sponsor, Vaughan Mitchell. He is asking us to assist him in meeting the compliance requirements of Section 42.

This project is trying to do something that is very unusual in the State of Texas. We are trying to leverage money from the Texas Department of Aging and Disability Services. Once concern that Ms. Patricia Murphy has indicated is that under Texas Administrative Code Section 1.15, the integrated housing, the integrated housing policy rules do limit the number of disabled units.

However the integrated housing policy rules also indicate that they don't apply to elderly developments. I think that we all believe that the vast majority of tenants who are going to be in here, are going to be elderly, aged elderly. But to receive the DADS funding, DADS will not allow the project to be restricted solely to elderly.

So it has to come in under the general set-aside, even though it is effectively mostly an elderly project. Because of that, we are also asking as part of the inducement that you waive the Integrated Housing Policy Rules as allowed under 15 to further the mission of the Department.

MR. CONINE: And you make my job hard. Is Vaughan going to speak? Yes.

MR. MITCHELL: I am Vaughan Mitchell, the developer. I am basically here to answer questions. The write up that the staff did for the Board book pretty well lays out all the facts and details of the proposed development. They did an excellent job, I think.

But I am just -- I have with me also a member of the development team, Shannon Flynn. And if you have questions regarding DADS, Medicaid waivers or any of those topics, he is the consultant who is the expert on DADS and all of the rest of the funding sources. Thank you.

MR. CONINE: Robbye, could you come restate the Department's concerns one more time on the Integrated Housing Rule, just so I make sure I understand and the rest of the Board understands what the real issues is? Since they are asking us to waive it. Patricia.

MS. MURPHY: Patricia Murphy from the Compliance Division. The intention of the Integrated Housing Rule is that properties not be entirely set-aside or occupied by persons with disabilities. That housing for the disabled is integrated into standard housing that we build. This property, in order for it to work with the DADS funding --

MR. CONINE: With the what funding?

MS. MURPHY: The DADS funding, through the Department of Aging and Disability Services --

MR. CONINE: Okay.

MS. MURPHY: The majority of the units are going to have to be occupied by persons with disabilities who receive this type of assistance. So but I don't think they actually need the waiver at this point. Right?

They don't need the waiver at this point. But the writeup just brings to your attention that if this deal does move forward, eventually, this Board will have to decide would they grant a waiver of the Integrated Housing Rule.

MR. CONINE: I would suspect that the reason that they are asking for it now is because they have to spend a lot of money and time in the process, and they don't want to have to go through that if this Board is not going to do that. That would be my guess.

MR. LITTLEJOHN: I want to just reemphasize, the Integrated Housing policy specifically says it does not apply to elderly projects. But we believe this project is going to be almost entirely elderly.

But because the DADS funding, one of their requirements is that you cannot limit to just elderly, you have to allow other disabled, there is a likelihood that we would have other disabled other than elderly. So technically, it has to come in as a general set-aside and be subject to the Integrated Housing Policy Rules.

MR. CONINE: Mr. Hamby, are you going to tell me I don't have the authority to waive it?

MR. HAMBY: You might have the authority to waive it under the rules, but not today.

MR. CONINE: Not today.

MR. HAMBY: It is not on the agenda. That would be one of those issues that would be very controversial and there would be a stream of people to come up and talk about why we don't want to see this type of thing happen. And I think the words that you just heard there apply to this deal. And I would urge you to read this write up carefully, because the thing, technically we can do this has to be said a lot with this deal.

MR. CONINE: Right. Yes, Mr. Littlejohn.

MR. LITTLEJOHN: When Patricia Murphy talked about the Integrated Housing policy, Mr. Mitchell and I did discuss and send the project to Brenda Hull, who is the department liaison with the Disabilities Advocate Committee. And said, this is what we are going to be asking for. And we realize that they meet monthly with the Department, and this was going to come before the normal monthly meeting.

I think Mr. Mitchell, if it would take more time, if we could put this on the agenda for next month, but get the inducement out of the way, that would be fine with Mr. Mitchell. So we would allow the Disability Advocates Committee to --

MR. CONINE: So your preference would be to table it, have a discussion, come back next month as opposed to just getting the inducement now and moving forward? Is that what I am hearing you say?

MR. LITTLEJOHN: Mr. Mitchell?

MR. MITCHELL: I think we prefer to get it all done so everything can move forward. Say that again, please.

MR. CONINE: It's your money. We can table it now for a month, and let you have a chance to work it out with the disability community, come back and ask the Board for a waiver at the time inducement next month. Or we can go ahead and induce it now without a change --

MR. MITCHELL: -- understanding that --

MR. CONINE: -- understanding that you can spend as much --

MR. MITCHELL: [inaudible]

MR. CONINE: Right.

MR. MITCHELL: I prefer to go now, please.

MR. CONINE: Okay. Thank you for your testimony. Is there any other questions of the witness or staff at this point?

MR. GERBER: Mr. Chairman, just to clarify, what the Board is doing is simply inducing this.

MR. CONINE: Right.

MR. GERBER: It is giving the developer an opportunity to have 150 days in which to pull his deal together.

MR. CONINE: Just inducement.

MR. GERBER: Just inducing. It is still coming back. And the waiver and other issues attendant with it comes back.

MR. CONINE: Do I hear a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move that the White Settlement project move forward to be induced.

MR. CONINE: There is a motion to approve. Is there a second.

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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. Nine A.

MR. GOURIS: Deputy Executive Director for Housing Programs. Mr. Chairman, and Board members, Item 9A is a presentation, discussion and possible action for the 2008 competitive housing tax credit appeals of underwriting. These are hopefully the last. I think there might maybe one more appeal that you will hear next month for the forward commitments that were underwritten and completed.

In November of 2008, the Board approved that all remaining 2008 applications for funding under 2008 Competitive Housing Tax Credit program be added to the waiting list for a forward commitment of 2009 housing tax credits, subject to underwriting. As of this date, all of the 2008 waiting list applications have been underwritten in accordance with the 2008 QAP and the 2008 real estate analysis rules.

All of the 2008 applications were underwritten using information provided and available in the original application, and in addition, were allowed to provide additional updated syndication information as long as it was submitted by each applicant by the December 1 deadline, December 1, 2008, as directed by the Board. As I said, there are three items on the agenda right now. There was a fourth one, Greenbriar that withdrew.

But three that are left are 08-154, Pioneer Crossing at Mineral Wells. This is related to a transaction that you all heard about earlier for an '09 appeal, for an '09 issue. The underwriting analysis concluded that the underwriters determination of expense to income ratio exceeds the Department's minimum of 65 percent expense to income ratio, pursuant to Section 1.32(1)(5) of the 2008 real estate analysis rules, and as a result, the transaction is not recommended for funding.

On March 11, 2009, the applicant submitted an appeal to the underwriting recommendation and requested that staff reconsider the amount of secondary income allowed from garage rentals and also consider a new property tax expense estimate that was provided by the applicant. The appeal rules for the Department don't allow us to actually recommend things based on additional information provided subsequent or provided as a result of the appeal. However, staff has looked at these things, and I can walk through what these things do, if you would like me to.

MR. CONINE: Yes.

MR. GOURIS: Okay. Section 1.32(d)(1)(B) of the 2008 real estate analysis rules allow miscellaneous income to include in a range of $5 to $15 per unit per month. The rule also allows exceptions to be made at the underwriter's discretion based on justification provided by operating history of comparable properties.

The applicant's appeal included four Housing Tax Credit developments as comparable properties to subject that had garage rentals. However the comparables provided were located in Abilene, Plainview, Weatherford, and Hereford, not in the subject's market area. The income generated from the garage rentals is highly dependent on submarket unit occupancy, rental rates and leasing concessions for a specific market.

The exclusion of this income for determining long-term feasibility of the apartment is due to the uncertainty of the income, as it is highly dependent upon these factors of the market. The applicant's revised annual property tax estimate that was provided with the appeal information was again not previously provided. The revised information is now comparable to what the underwriter used in the underwriting analysis anyway, so it would not have changed the underwriters feasibility conclusion.

The garage income might have changed the feasibility conclusion. But since we didn't accept it, because they didn't provide documentation to support it, we recommend that the Board deny the appeal. This was considered by the Executive Director and he affirmed the denial.

MR. CONINE: Okay. I have got Cynthia Bast to speak to Mineral Wells.

MS. BAST: Cynthia Bast of Locke, Lord. I just want to say thank you so much for listening to all of these various situations. I know that it is tedious for you to listen to each of these, and we really do appreciate your attention to these. Again, I am representing this applicant.

And just to remind you, this is a different project that the one from Mineral Wells that you just heard a little bit ago. This is an 80 unit project for families. And as you heard from Mr. Gouris, what we have here is an issue of the expense to income ratio. And in the real estate analysis rules, we said a 65 percent threshold there that the expense to income ratio cannot exceed that amount. This is actually an issue that you have heard in underwriting appeals before.

The purpose of this rule is quite simply to make sure that there are sufficient revenues to pay the bills. But of course, this is not the only measure of financial feasibility of a project. The applicant calculated the expense to income ratio at 64.72 percent. The staff calculated the expense to income ratio at 66.57 percent. So you can see that these two sides are very close together. Just on either side of a line.

And in fact, when you put real dollars to it, we are talking about a few hundred dollars worth of monthly income and expenses that are making the difference as we are applying these assumptions. As Tom mentioned, one of the significant differences between the applicant's presentation and the staff's presentation is income associated with garages. This project is expected to have 40 garages for the 80 units.

The applicant's presentation did include the income from the garages. The staff's presentation did not. If we would project only a portion of those garages to be included in the income, at a reasonable rental rate, then that would make the difference and put the project below the 65 percent expense to income ratio. Part of the reason staff has declined to include garage income is because there are no comparable properties in Mineral Wells that are available for analysis.

But as you heard from me earlier, Mineral Wells is a town of 17,000 with 112 tax credit units, all of which are occupied. So of course, there are no comparables in that submarket. There is however, a tax credit property with carports. That property has 72 units with 28 carports that rent for $15 apiece. Those carports are 85 percent leased.

So we believe it is reasonable to assume that a resident would pay a little bit more each month for a garage. Since there are no other tax credit properties in Mineral Wells with garages, the applicant -- an I believe I have Mr. Jooma's time, tried to present information for other tax credit properties that were at least in similar communities. And so that is why we presented Weatherford, Hereford, and Plainview.

All of those towns have approximately the same population as Mineral Wells. They do have tax credit properties with garages that are renting for anywhere between 35 and $65 per month, and they are 90 percent occupied. So that is the closest we could get to a reasonable comparable. Of course, garages might not be the only way to resolve this expense to income ratio problem.

There are other ways to get there. We have talked about property taxes. You heard that from Mr. Gouris. The 2009 rents recently published by HUD obviously would make a significant difference in this. Standard underwriting uses a 7.5 percent vacancy. In Mineral Wells, they have got 100 percent occupancy. It may be reasonable to use a lower vacancy.

There is all sorts of things you can do to bridge that gap of a few hundred dollars per month. And that is the bottom line here. The applicant and the staff are really very close to each other in their calculations. And staff's decision not to include the garage income, it may be consistent with the rules, but it may not be consistent with common sense.

So when the parties are this close together, we believe it is reasonable to assume that this project can be operated in a financially feasible manner. And for all of these reasons, we respectfully request that you grant the appeal, that you overrule staff's finding of financial infeasibility and that you do allow this project to proceed.

MR. CONINE: Any other questions? Any questions of the witness? Excuse me.

(No response.)

MS. BAST: Thank you.

MR. CONINE: Thank you. Do I hear a motion from the Board? I tend to view favorably on the request here.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move that the appeal be approved.

MR. CONINE: Motion to approve the appeal. Is there a second? I will second it. 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.

MR. GOURIS: The second appeal is for the Desert Villas, 08-183. The underwriting analysis concluded that the estimated deferred developer fee is not repayable from development cash flow within the first 15 years of stabilized operation, pursuant to Section 1.32(i)(3) of the real estate analysis rules for 2008. And as a result, the application is not recommended for funding.

The applicant's appeal did not contest the Department feasibility determination based on the information provided in the original application. Rather, the applicant appeal requested that staff consider new information that was not previously available to the underwriter as well as consider the potential source of ARRA funds to assist the project in being financially feasible. Specifically, applicant's basis for the appeal cites a reduction in management fee, and the use of 2009 rent limit rents.

The applicant's suggestion to use the reduced rent or management fee does not impact, and the applicant has agreed that it doesn't impact the financially feasibility in consideration. The use of 2009 rents however, would make a difference. The problem is that we are not then using 2009 utilities, 2009 expenses. And so we are looking at one piece of an increase and not looking at the rest of it.

MR. CONINE: Right.

MR. GOURIS: So staff does not recommend approval of this appeal.

MR. CONINE: Okay. I have got a couple of witness affirmation forms. Keith Puhlman and Cynthia Bast.

MR. MONTY: I am also on that one.

MR. CONINE: Are you on this one too? I see your company name, but I don't see you. Unless it was in a -- come on up. You can come up and speak if you want to speak.

MR. PUHLMAN: My name is Keith Puhlman and Cynthia Bast is going to relinquish her time to me. My name is Keith Puhlman. I am a CPA by profession, and I have been the CFO of Investment Builders in El Paso, Texas for the past eleven years. Although we have developed 75 housing projects, totaling more than $500 million for various customers, including projects for the Army and the Air Force, as well as individual investors in market rate properties, providing affordable housing to low income families and elderly people has been our core business since the company was founded by Mr. Ike Monty in 1993.

As CFO of the company, my responsibilities include creating development budgets and operating pro formas acceptable to various lender and agency underwriting standards. Negotiating business deal points, monitoring and directing due diligence from the application process through the closing and conversion to permanent financing.

I have done this for more than 30 projects with a combined development budget of $322 million, utilizing tax exempt bonds, housing tax credits, conventional financing, and equity capital raised from individual investors for new high end market rate communities. I take great pride in the work I do, and make every effort to make sure that any deal we do is not only financially feasible but also has the best possible chance of success. As a CPA I tend to be on the conservative side. And although I am not quite perfect, every deal we have ever done is still operating and generating cash flow, with the exception of one eight unit rural home deal that requires a little help from us each month to keep the mortgage current. My biggest fear is getting involved in game playing with the numbers on an application, and then getting awarded a deal that we can't make work. So we try to present the information based on the latest information that we have.

In 2008 round, we submitted an application for project 08-183, Desert Villas. And in November 2008, received a forward commitment pending staff underwriting. Staff requested that we submit selected information and they would use this information to underwrite our project. We supplied staff with the requested information which did not include a new development cost budget.

I was somewhat puzzled by the omission of the new cost budget, but figured that staff might ask for it later. Obviously, if lenders and equity providers were overhauling their terms, this would impact associated costs, and the development budget would probably change somewhat.

In any case, I made some assumptions that provided the project with the funds required to make financially feasible even though we provided staff with a new letter from the syndicator, lowering our original credit price from 76 cents per credit to 70 cents per credit. One of the issues that staff didn't in their underwriting that I missed was that they didn't apply the 30 percent DDA boost to the increase, the 10 percent increase in the construction money, and I did.

So I thought we had a financially feasible deal based on that and some other issues as well. Well, it turned out that some of my assumptions were wrong. We finally got the staff underwriting report at the end of March with the determination from staff that the project was financially infeasible because the 15 year cash flow was about $100,000 short of paying the deferred developer fee and would not be recommended.

We were not given any opportunity to engage in the normal discourse with staff, and received no deficiency notices to respond to. I would contend that the determination by staff of financially infeasibility should be treated as a deficiency notice and that we should be given the chance to respond under normal due process, rather than through the appeal process. However we had to respond through the appeal process. When we did that, our appeal was denied.

And we were told that the Department could not allow any new information to be evaluated in determining the financially feasibility of our project. In fact, this project is highly feasible, if we were only allowed to submit our current insurance premium information, we could cover the $100,000 shortfall and generate an additional $10,000 surplus.

Or if we were allowed to submit the current rent schedules for El Paso, which received a 5 percent rent increase, this project would generate cash flow to pay off the deferred developer fee in less than eight years. And I am almost done. While providing more than $500,000 of additional cash flow during the 15 year compliance period.

If the staff is allowed to evaluate this new information, we would pass all the financially feasibility tests with flying colors. And there are no other issues to be resolved to get a commitment on this deal. I will go out on a limb here and say that if all these items are taken into consideration, this deal may not even need or require any stimulus funds although we wouldn't turn them down.

We could close this deal in 90 days from the time we receive an allocation letter from TDHCA. But I would recommend that you apply the 2009 timetable to all of the forward commitments in order to keep things simple. El Paso is facing an unprecedented housing shortage, which I am afraid will affect the low income families the worst. And we really need your help to get the deals that are shovel ready done as soon as possible. Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Ike?

MR. MONTY: Thank you, Chairman. And I will really keep this brief. I spoke earlier about the El Paso issue. I spoke earlier about the thanks for the forward commitment. We have also spent $100,000 on this transaction. There is a couple of issues with regards to the insurance. But it goes to your point in terms of the syndicator.

When we submitted the letter from the syndicator, we tried to get a real price. And it would have been real easy to say, write it for 76. Just so that the deal works. We asked them, does the deal work? And he wrote it for 70. And we, in these turbulent times, we just kind of got caught. Staff is doing their job by all means. But there was just -- I don't want to call it a technicality.

MR. CONINE: Got it. I understand.

MR. MONTY: That is it. And here is a letter and the article. Thanks for your time.

MR. CONINE: Thank you. Any other questions of the witness?

(No response.)

MR. CONINE: Tom, I want to make sure, that if the Board decides to grant the appeal, all we are doing is granting the exception to the deferred being repaid in 15 years. We are not saying he can use '09 rents. We are not saying he can do any of all this other stuff. We are just granting that one appeal to get it continued. Is that correct?

MR. GOURIS: That is my understanding. I was going to actually get to get clarification from you on this and the prior.

MR. CONINE: No. We ain't doing any of that other stuff.

MR. GOURIS: Because there is a reference to an extension of time to close as well.

MR. CONINE: No.

MR. GOURIS: And that is something you would ask that we take --

MR. CONINE: No. That goes later.

MR. GOURIS: Next time. Okay.

MR. CONINE: Okay. Thanks.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray?

MS. RAY: I move to approve the appeal.

MR. CONINE: Grant the appeal.

MS. RAY: Grant the appeal.

MR. CONINE: For just on the developer fee feasibility.

MS. RAY: On the developer to pay over 15 years.

MR. CONINE: No. I don't need it. Is there a second?

MR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Any further discussion? I will just mention there is a letter here from Elliot Shapleigh supporting the transaction to be read into the record. Anything else?

(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. Next.

MR. GOURIS: And just to be clear on both of those, because the underwriting is now approved, there would be a credit allocation based on what the underwriting amount referenced --

MR. CONINE: Yes. You still have all the power in picking the number.

MR. GOURIS: The third appeal is for Sun Homes, 08-190. The applicant is appealing the amount of recommended credits and asserts that the development now justifies an annual allocation of $1,650,000 based on new information not previously provided to the Department.

Basically, they are indicating that there is not anything wrong with what was underwritten, it is just that they didn't have enough time to provide us with a revised syndication and revised vendor lender letter by the December 1 deadline. They provided that to us as part of the appeal process. They actually received it the day or day after we finished the report, or sometime like that.

So we finished the report, published the report and they submitted the new syndication letter and a new lender letter. They believe they can go ahead and close on the transaction. But they need the additional credit allocation in order to get there. Originally, they had requested a million two, because they are capped at a million two.

MR. CONINE: Right.

MR. GOURIS: The recommendation was for a million four plus some change. So it was about closer to a 20 percent increase, 18 percent increase. And now they are looking for an additional amount, because their loan amount has declined, freeing up more gap for them to be able to access additional credits.

MR. CONINE: Now what did staff recommend?

MR. GOURIS: Staff is not recommending the increase because it was information that wasn't --

MR. CONINE: Still at a million two?

MR. GOURIS: No. A million four.

MR. CONINE: A million four?

MR. GOURIS: Yes.

MR. CONINE: Is that with the full nine and everything?

MR. GOURIS: That is with the full nine. They are actually eligible for considerably more. This was a gap transaction.

MR. CONINE: Okay. Got it. All right.

MR. GOURIS: And you know, the issue here is -- it is really not an appeal, none of these really have been an appeal of an underwriting error or an underwriting issue. It is just the circumstances are they weren't able to meet a deadline to get information to us, and subsequently are getting information to us, and it is an appeal to the Board to try to ask you to allow us to utilize that or accept that.

MR. CONINE: Okay. I have Ryan Wilson, Lorraine Robles and guess who, Barry Palmer.

MS. ROBLES: Good afternoon. I am Lorraine Robles with the San Antonio Housing Authority. And thank you for allowing me to come before you this afternoon, to speak on behalf of the Sun Homes project, 08-190, in support of our underwriting appeal.

Just to give you -- to refresh your memory very quickly, Sun Homes was built in the 1950s and is located on the East end of San Antonio. It is an area that is in dire need of revitalization. And we understand that the project is, in its condition has contributed to the decline of the neighborhood.

So conversely, we feel that this is an important project to the community. With its revitalization, it is going to spark more revitalization. Just within the last few months of having worked on this project, and trying to meet our deadline, we have been approached already by the City, and other community partners to bring, to do additional revitalization in that particular area, which would include infill housing and to bring in some commercial pieces that are desperately needed in that area.

I also wanted to let you know that when you made your decision in November to grant us the forward, we were truly appreciative. We have been trying for many years to try to get funding to revitalize this particular project. And so we moved forward. We ran forward with it. We put the wheels in motion.

We have been working diligently to make sure that everything is in line, and that we can meet our May 15 deadline. We have met with our community. We have met with our residents. They are practically packed. They are ready to go. We just had a meeting last night. And as you can imagine, they are anxious, and they are very grateful.

So on behalf of the residents, I thank you. We have commitments from SAHA for 5.1 million in replacement housing dollars towards the first phase of this project alone. As you may or may not know, obtaining these monies from HUD is a very long and rigorous process. From the get go, once we got the approval for the forward, we spoke to our HUD local office, and they, knowing how important the project is, gave us their commitment to meet that May 15 deadline.

And so again, we have worked diligently to get the commitment of not only HUD and our development partners, our lenders, our equity providers, and we are ready. We just need a little bit more. And so I respectfully request that you approve our underwriting appeal.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Ryan Wilson?

MR. WILSON: Thank you, Chairman. Thank you, members of the Board. We really appreciate your patience here today, listening to these appeals. I know it is arduous at times, so we really do appreciate that. We received support from the Board last November.

As you have also heard several times from me and others and people in our green shirts, our Save Sun. You have heard from the community. You have heard from the local political offices. This development is highly supported and highly needed. That, I think we know.

When we left the November Board meeting, we knew basically two things. Number one, there was going to be an increase of credits. And number two, we close by May 15. Those two things we took very seriously, and as Lorraine kind of indicated before, moved forward based on those assumptions.

Unfortunately, internally, we were a little bit off in our assumption of what those credits might be. We didn't want to come. The dates between when the Board asked for, when we got the forward commitment and the dates of December 1, was not enough time for us to submit a true real commitment.

In hindsight, perhaps we maybe should have done something different as others have brought up in the past about well, let's just throw a little number together and see how it works. That is not how we approach our developments. That is not how we approach this Board. And that is not how we approached it before.

We didn't have a firm commitment for our person who would actually close by December 1, so we submitted what we had. It turns out, as underwriting and as Mr. Gouris has been so patient with me to explain, the gap method was much lower than we anticipated, so we immediately submitted what is now a real lender, a real equity provider and a real deal. A real community ready to go on May 15.

We respectfully -- having said that, our anticipation is not to ask for TCAP funds, it is not to ask for exchange programs, because we are ready and committed based on the approval of this appeal, to move forward on May 15. No 90 days, no none of that. We are fully prepared and fully able.

And we want to do that.

You know, I think, Tom, it bears mentioning just for a quick second that there was brought up earlier on a similar situation about re-underwriting and a lot of work that staff might have to go through. And we are cognizant of that, too, and appreciate that.

We also would respectfully submit that re-underwriting versus the gap method with an updated equity letter is now re-underwriting the whole deal. It is re-underwriting one specific line in the underwriting report. It is not underwriting rents, the market, or any other, the various things that underwriting goes through. It is simply a matter of establishing what the current market is.

I think you will all agree the last six months have seen absolutely tremendous swings from one side to the other in the capital markets. And we are here today with a deal that works, and with real people, ready to close, and a real community. So with that, we respectfully request that you grant our appeal today, and award us the additional credits that we need to get this deal going.

MR. CONINE: Any questions of the witness?

MR. WILSON: Thank you.

MR. CONINE: Barry Palmer.

MR. PALMER: I just would like to point out again that this has been a partnership between the San Antonio Housing Authority and a private developer. It is a tremendous undertaking to redevelop public housing. A very complex transaction. And for them to be able to get a commitment on

November 13 and close on May 15 is truly a remarkable accomplishment.

But that is where they are right now. They are prepared to go to the closing table on May 15 with HUD approval, with a lender, with an investor, to close this transaction, without any need for TCAP funds or exchange program. All we need is $235,000 more of tax credits. That is what this appeal is asking for.

They would be eligible for if they hadn't been capped by the gap method based on an outdated investor commitment. Now when you granted the credits on November 13, the warranties were notified on November 21 that they had to get in a new syndication letter by December 1. That was nine days over the Thanksgiving holiday. We couldn't get an update letter in that time period, so we submitted what we had.

And since that time, equity prices went down tremendously. Our loan went down. We have a gap. But with these additional credits, we are prepared to close on May 15.

MR. CONINE: Okay. That is the last witness affirmation on this particular agenda item. Tom, there is a gap. Historically, we don't mess with the gap funding. That is kind of sacred in this scenario. But can you tell me what you underwrote or what the syndication price was in the package versus what we think it is today?

MR. GOURIS: What happened in what was submitted in December, what was submitted was the same number that was submitted originally. So they didn't have a new number. And as he mentioned, he could have given us a number that was much lower, from an eye candy [phonetic] commitment letter. He didn't do that. He just kept with what he had.

When he realized he needed to move this thing forward and try to get it done, he actually, in the appeal gave us a commitment letter that had a significantly lower credit amount, syndication price, and that is what increased the gap. And that is what his gap is based on. It is not based on -- I believe -- it is only based on that, and not on the debt amount.

MR. WILSON: The full gap, if you do the full calculation, was like 1.9 in credits.

MR. CONINE: Okay.

MR. WILSON: And so we understand --

MR. CONINE: The developer fee gap.

MR. WILSON: The severity of this, what is going on. So we reduced that by 250,000 or 300,000 to help solve that.

MR. GOURIS: So they are only looking at the gap that has occurred because of the syndication price adjustment that they did not get us by December 1.

MR. CONINE: And did I hear the applicant say they could close by May 15?

MR. GOURIS: That is what I have heard several times today. 72-1/2 is the syndicator's price.

MR. CONINE: Okay.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move that we approve the appeal with the additional gap funding of 200 what was that number again? Two hundred and how much additional in tax credits.

MR. PALMER: Two hundred, thirty five thousand.

MS. RAY: Two hundred, thirty five thousand in tax credits.

MR. CONINE: Subject to a re-review by underwriting staff and closing by May 15.

MS. RAY: All of the above.

MR. CONINE: Thank you. Do I hear a second?

MS. BINGHAM-ESCAREÑO: I will second that.

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: The motion carries.

MR. GOURIS: I almost closed my book. But I appreciate you all hanging out here with us. And sorry that it is taking so long. But I think I have got the last action item here.

MR. CONINE: I think you do.

MR. GOURIS: Item 9B.   Item 9B is a request for an extension of cost certification submission deadline and a request for additional tax credits to be allocated via forms 8609. The deadline to submit the cost certification for this transaction was April 1 of the year following the date of the first building placed in service. Cost certification was required therefore to be submitted on April 1, 2007, because the first building placed in service was in 2006.

The cost certification as submitted to us on December 19, 2008, and the owner requested an extension on March 30, 2009 in response to a cost certification deficiency letter from the Department. So they asked for the extension after they submitted the cost certification. The delay in the submission of the cost certification was partly due to the fact that the certificates of occupancy for the final three buildings were not received by the developer until 2008.

The cost certification has been received and has been reviewed by the Department, and the owner has paid the extension fees. And therefore, staff has recommended that the extension for the cost certification deadline be accepted. That is traditionally what happens. The owner is also is requesting an 18 percent increase in the annual tax credit allocation for a total of $594,504. Because this is a 4 percent Housing Tax Credit tax and bond transaction such an increase is allowed under the QAP. However, increases over 10 percent have to be approved by the Board. The owner is required under the QAP to pay a credit fee equal to 5 percent and he has paid this fee. Okay.

There is one contingency that we wanted to put on this, because there is some concern about eligible costs associated with the road that was part of the construction costs, we ask that the Board approve the entire amount of the additional credits, subject to some evaluation, re-evaluation of the eligible basis for that part of the road.

MR. CONINE: Okay. Got it. I understand. I have got one witness affirmation form from Bill Fisher or Robert Onion. Any one. Bill?

MR. FISHER: Good afternoon, Board members. Bill Fisher, Odyssey Residential I actually have some good news for you, that I wanted to share. We closed our tax credit equity transaction in Brownsville on the 23rd of January.

MR. CONINE: Good.

MR. FISHER: And sold a million one in credits and I have got an $8 million construction loan from the local bank. The City took out a full page ad on our development, touting their contribution of HOME funds in conjunction with your allocation to make the housing a reality, and I appreciate that very much. I also just wanted to thank you all. Last month you helped me with my deadline for getting my 8609s out. Working with the Legal Department, et cetera, we were able to get a small extension on that.

And I need to recognize about five staff members that really put in some additional time for me. Patricia Murphy in Compliance and her group. The folks who actually process the cost certifications, Audrey Martin and Rosalia Benavides who does that. Vince Shepard was helpful to us, and certainly, Kevin Hamby, who working with the documentation we provided was instrumental in getting us into a position where we could get to today. And get all of our additional credits, and get our 8609s issued.

And I appreciate their work for us. With that, this is an '04 bond deal. We have a lot of additional costs. It was built during the hurricane periods of '05 and '06. We are eligible for the additional credits, I would be happy to answer any questions you have.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Seeing none, I would entertain a motion.

MS. BINGHAM-ESCAREÑO: Move staff's recommendation.

MR. CONINE: Move staff recommendation with the caddy on the road and you guys getting happy with that. 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: The motion carries. That is the last agenda item.

Mr. Gann, thank you for joining us. We look forward to your service, as we move along.

MR. GANN: As well, do I.

MR. CONINE: Thank you very much. The meeting stands adjourned.

(Whereupon, the meeting was adjourned at 4:15 p.m.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: April 23, 2009

I do hereby certify that the foregoing pages, numbers 1 through 223, 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 & Community Affairs.

4/30/2009
(Transcriber) (Date)

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