

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

Wednesday, May 12, 2010
E1.026
Capitol Extension
Congress Avenue
Austin, Texas

PANEL MEMBERS:

C. KENT CONINE, Chairman
GLORIA RAY, Vice-Chairman
TOM GANN
LESLIE BINGHAM-ESCARENO
JUAN MUNOZ
LOWELL KEIG

MICHAEL GERBER, Executive Director

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P R O C E E D I N G S

MR. CONINE: Good morning. Spring has sprung. The humidity's here. And we're hot. Excuse us -- some of us for having our coats off. Get to roll up our sleeves and go to work. Welcome to the May board meeting of the Texas Department for Housing and Community Affairs.

First order of business is to see who's here.
Leslie Bingham?

MS. BINGHAM-ESCARENO: Here.

MR. CONINE: Kent Conine's here.
Tom Gann?

MR. GANN: Here.

MR. CONINE: Lowell Keig?

MR. KEIG: Here.

MR. CONINE: Juan Munoz?

DR. MUNOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: We're all here. Okay. All hail.
Want to -- I guess the first thing we want to do today is a couple of resolutions that are listed first here.

I will remind everyone here that we do take

public comment on -- at two different times, either at the beginning of the meeting, which will occur shortly after these resolutions, or during one of the agenda items. If you wish to speak make sure you fill out the witness affirmation forms and we'll be glad to let you address the board on whatever topic you agree to do so.

Secondly, I'd like to recognize some people in the audience. I had the pleasure of meeting with the staff of the Sunset Advisory Commission. It's our turn in the barrel this time. Leah Daly, Michelle Downie, and Leonard Chan sitting right here. You guys be very nice to these people today. They're doing their job and they're doing it well and we had a great visit this morning. And look forward to participating in that process with the Legislature this next session.

Okay. On to our resolutions.

Mike?

MR. GERBER: Mr. Chairman, before we go to the resolutions --

MR. CONINE: Okay.

MR. GERBER: -- I know there is some interest in Item 1 (p), which is the naming of our Barrier Removal Program after Amy Young. And we're looking forward to having some members of Amy's family here no earlier than

10:30. So if there are folks who are waiting for that particular item we would urge you to feel free to come back at 10:30 or stick around if you like. But we won't take it up any earlier than at that time.

Mr. Chairman, Board members, April was Fair Housing Month. And the Department recognized it in a number of different ways. But we have always had a tradition and unfortunately we didn't have a board meeting -- or fortunately, we didn't have a board meeting in April. And -- but we do want to put the board on record as it long has been for being in support of advancing our nation's fair housing laws and our state's fair housing laws.

And so we have a resolution that we will pass along to each of you and we ask that you sign it, which was all set in the goal and responsibility of providing equal housing opportunities for all. The governing board of TDHCA does hereby celebrate April of 2010 as Fair Housing Month in Texas and encourages all Texans, Texas individuals and organizations, public and private, to join and work together in this observance for free and equal housing treatment and opportunity for all.

I would make mention to the housing community and to the board, as well that we are in the process now

of working to affirmatively further fair housing in more significant ways. Because of guidance that we've received from HUD we believe that the effort to affirmatively further fair housing will be more pronounced in our Tax Credit Program, although that's not obviously a HUD program but it's afforded by HUD dollars to the Tax Credit Assistance Program and other programs.

We believe that this will be an area of continuing interest to the administration and we would encourage all of our partners to be sensitive to this issue because the Department is going to take -- recently take that as more serious and significant obligation. So we're passing along that resolution and ask for your signature.

The second item is acknowledging June, 2010 as Homeownership Month in Texas. And the board also will have a resolution to sign. And it is resolved that in pursuit of the goal and responsibility of providing homeownership opportunities for all Texans the governing board of TDHCA does hereby celebrate June of 2010 as Homeownership Month in Texas and encourages all Texas individuals, organizations, private and public, to join and work together in this observance of Homeownership Month.

We're excited that this Homeownership Month the Department will have no less than \$50 million in new, First-Time Homebuyer funds that we'll be issuing. That will be coupled with our Mortgage Credit Certificate Programs and with other programs to advance home ownership.

We'll continue to have some of the lowest interest rates in the state and most of those will provide assistance, down payment assistance and closing cost assistance. And so we will continue to make a very strong difference in the lives of low-income Texans who are appropriately ready to meet the challenge of home ownership.

And I would remiss to mention -- I think we have shared with you're a press release the Department has issued. The Department is very proud that the Tax Credit Monetization Program that this board directed the staff to undertake, which was a way to -- up front dollars, lend funds in the amount of six or \$7,000 for a period of up to 120 days -- families to be able to cover that \$8,000 tax credit so that while folks were filing their tax return and waiting to get their payment from the IRS they were able to have those dollars for those closing costs and down payment costs.

That we were able to help 854 families in the State of Texas. And that translated into the ability to purchase more than \$110 million in real estate. So we are very proud of the difference that we made to that program and want to salute the board for its ongoing commitment to advancing home ownership.

With that, Mr. Chairman, I'll turn it back over to you for public comment.

MR. CONINE: Okay. Thank you very much.

I do have some witness affirmation forms here.

Michael Gaertner?

MR. GAERTNER: Good morning. I'm Michael Gaertner. This is my second time to come and appear before you. And I want to thank you for your support when I came here last for residential multifamily projects in Galveston and the support that you provided for Odyssey Residential, who is in the process of rehabilitating a number of apartment complexes in Galveston.

I'm here today. I guess if you come once you're a witness, twice, you're an advocate. Next time I'm going to be an activist. I am -- I want to first request your support for the amendments to the City of Galveston Program. I am from Galveston. And I'm a -- I guess I'm an activist in the community. I've been chairman of the

Chamber of Commerce, severed on a lot of volunteer committees and I stay involved in the community. Not so much since the twins were born. But they're ten now so I have a little bit more free time.

I'm here primarily to talk to you about Section 2306.514 today. I'm an Aggie. This is an Aggie power point. And I apologize to our internet viewers who are going to have trouble seeing this. But you can Google 2306.514 on the internet and you'll be able to see what it is I'm talking about. This is called the -- often referred to as the No-Stepper or Visitability Rule. And it's being applied by TDHCA to disaster recovery housing in Galveston.

When I saw a photograph of a house that complies with this I became concerned. It doesn't make much sense. And it makes less sense in Galveston.

MR. GERBER: Let me interject.

MR. GAERTNER: Yes?

MR. GERBER: That -- we agree that that particular accessibility feature was not appropriate for that house. And we tore it down.

MR. GAERTNER: I understand.

MR. GERBER: And I appreciate the fact you've taken the most egregious example of it. I found that

unacceptable, too.

MR. GAERTNER: Well -- and I should mention I'm an architect and I work in Galveston. And I do a lot of work with the City of Galveston through the -- their HOME Fund Program where we build houses. And we do often put handicapped-accessible ramps on houses. I have done -- in fact, I just completed four designs for the City of Galveston, all of which included ramps. And I grant you, this is an extreme example.

But in Galveston if we're working in the flood plain area we may be raising houses ten, 12 feet above grade to get them up out of the flood plain. And on August 1 the city has amended its flood plain ordinance and so we'll be raising the houses an additional two feet of free board that's going to be required under our flood plain ordinance. That adds an additional 24 feet of ramp.

The enabling legislation or the section, 2306.514, provides only one criteria for a waiver. We can talk about the cost of a ramp. We can talk about whether it's appropriate or inappropriate. It has absolutely nothing to do with anything because the only variance that can be provided is if the cost of grading the terrain is prohibitively expensive.

And we're no strangers to grading terrain in

Galveston. After the 1900 storm in 1906 we began a grade-raising program all over the island. It started at the sea wall, 19 feet, and it tapered down. At Broadway it was eight.

This is the damage assessment map prepared by FEMA after Hurricane Ike. And what I want to point out is that this line right here is Broadway. You'll notice on this side grey and green south of Broadway. North of Broadway, which is primarily where we find low and very low-income housing we also find the lowest terrain. So you may have elevations of five, six feet above sea level.

If we're going to try to get those up to 14 feet above sea level above Hurricane Ike elevation we've got to do a lot of work. I believe that the only practical way to comply with this requirement and to analyze the cost of grading is to look at it a city block at a time. And so that's what I did.

Took a look at what my experience is with select fill, raising houses -- we've been doing a lot of house raising in Galveston -- and utility work and infrastructure. So I totaled all of this up and I find, you know, if we just make some very simple assumptions -- we have 1,650 applications for housing assistance now -- let's say only half of them are low and very low income.

And we assume -- I'm going to assume that there's maybe four of these are one of the blocks in Galveston. Again, just an assumption.

So at that rate we'd be talking about raising 200 blocks or regrading 200 blocks in the City of Galveston at a cost of about \$688,000 per block. This would total \$137 million. I could be off. I could be wildly off. I could be off -- I could be twice as much. I tried to be conservative. I'm a conservative estimator.

So I think in this case the true cost is actually much more than \$137 million. But let's say it's only \$66 million.

I still believe that this is prohibitively expensive as defined by Section 2306.514. And I would ask that in communities -- in disaster recovery communities with scattered site housing that comply with the National Flood Insurance Program and where the required change in elevation from a natural grade to base flood elevation plus free board required by the community is greater than 50 inches that the cost of grading to comply with this section be considered prohibitively expensive by TDHCA.

I believe that it is. There's no other criteria that we're provided for analyzing this. This is the only criteria that we have to determine if this is

something that we can do or not. I'm not advocating not providing accessibility for persons who are disabled, for anyone who requests a ramp or an elevator or a lift. All I'm requesting is that we get away from this practice of providing handicapped ramps on every single house. On a 43 foot wide lot, which is 90 percent of the lots in Galveston, this is impossible to achieve.

I really do appreciate your time. I so much appreciate your service to the state. You guys -- I know what it's like to be on a board. And I'm sure that people don't say thank you enough. I want to say thank you for your service, thank you for all you've done for Galveston and hope you'll consider my request.

MR. CONINE: Michael, how did you get to the 50 inches?

MR. GAERTNER: I picked 50 inches because that's what HUD uses in the Fair Housing Act. And I thought, you know, that's -- that is -- you know, that's -- it's about two -- a little over two feet of fill. So it's about half of what I figured the cost would be. But I wanted to be -- I picked it because it's consistent with what we've seen in other federal regulations.

MR. CONINE: Okay.

Any other questions of the witness?

MR. GERBER: I would note, Mr. Chairman, that Galveston is a unique situation.

And I know we're working very closely with you all. Generally, the state has taken the view that, you know, as long as HUD doesn't have a problem with it we're generally okay. They've taken a pretty strict view when it's come to reconstruction and eligibility requirements in places like Sabine Pass and in lower-lying areas of Port Arthur. And I know that they are becoming even more strict. We would certainly work with you on any waivers.

But -- you know, to try to address those issues. Because it's going to have a tremendous impact. We agree with you.

On the accessibility features I know I've had some conversations and our staff has, as well. One of the things that's proven very effective to the Department has been having a disability advisory work group to try to work through issues that can be addressed. Clearly, every home in Galveston does not need to be made, when it's rehabbed, does not need to be rehabbed in a way that makes that house visitable, if there's not any -- if there's not a need for that.

However, there's a balance to be struck.

Because it isn't state law. And the state does have and the Department does have some waiver authority. So I'd like to work with you on that. I want to make sure that the disability community and would encourage the City of Galveston to create a disability advisory work group to make sure that there's an understanding of what's really needed and what kind of a waiver would be appropriate.

MR. GAERTNER: I appreciate that very much.

MR. GERBER: Sure.

MR. GAERTNER: And let me just say that Sarah Newsom has been most cooperative and helpful. And I know that she is overworked and underpaid. And -- but I just felt that this was something that I wanted to call to the board's attention because we don't have a lot of legislative leeway in here for granting a waiver. It's -- there's only one criteria. And I wanted to point out this criteria clearly -- and you can estimate it lots of different ways. I think that you're going to find it is, in fact, prohibitively expensive.

MR. GERBER: And we'd like to work with you and make these dollars go as far as they can. And appreciate you bringing it forward.

MR. GAERTNER: Thank you all very much.

MR. CONINE: Thank you.

State Representative Ed Kuempel?

REPRESENTATIVE KUEMPEL: Thank you, Mr.
Chairman.

MR. CONINE: You're welcome.

REPRESENTATIVE KUEMPEL: Chairman Conine and members of the committee, it's certainly a pleasure to be with you today. I went back over the members thing and I was kind of upset. I don't know if I should be upset with you or the clerk. I didn't see a cake, an anniversary cake back there.

Lowell, were you supposed to bring it?

MR. KEIG: I don't know. My anniversary's tomorrow.

REPRESENTATIVE KUEMPEL: Well, I'm celebrating today, May 12. And I could not think of a better way to come than before the committee.

(Laughter)

REPRESENTATIVE KUEMPEL: But I am one year old today.

MR. CONINE: One year?

REPRESENTATIVE KUEMPEL: One year old. I died last year, May 12, in the elevator.

MR. CONINE: That's right.

REPRESENTATIVE KUEMPEL: So I -- you knew that,

didn't you? And you said, I hope he comes to see me on my first-year anniversary.

(Applause)

REPRESENTATIVE KUEMPEL: I saw this distinguished group. I said, This is -- I'm starting all over and how better could I start my life than being before you all today. And fortunately, my cardiologist, if I -- sometimes my filter gets stopped him. He told my wife -- he said, Birdie, his filter could stop and get clogged up. He said, And he's liable to say something that really doesn't make any sense. She said, He's been doing that for 45 years. So I doubt that. So if I say anything that doesn't make any sense, ask the experts behind me.

Well, I'm here. I kind of feel like Elizabeth Taylor's fifth husband when he was overheard to say, I don't know what to do and how to do it, I just don't know if I can make it interesting anymore.

That gentleman, he had pictures. I don't have -- you're just going to have to look at this face.

And I apologize for that, Leslie. But that -- you have just five minutes of the Kuempel chin.

The Ashton Project -- we're here to talk about a Ashton Senior Village Apartment that's -- and you'll

have some more people in the next two months speak -- is not only needed in Schertz community, but it's very much wanted and supported by the community. And you have found that out probably over your tenure that a lot of times communities don't come together and work together to try to get these projects done.

And Schertz is -- the Schertz community is fully behind this. They can't wait for it. It's kind of like a cow that hasn't been milked by noon. I mean, it's ready to get done. Schertz is a fast-growing city of -- outskirts of San Antonio with a population perfect for this type of community and this type of project. The project is exactly the sort of project that the TDHCA wants to fund because it's unanimous support from the neighborhood, the city and local and state officials.

When we look at the -- likely to be -- I know this is -- and here again, my filter might be upset here a little bit. But it's likely to be one of the highest-growing new constructions in the San Antonio region and has potential to rank among the highest in the state. They have successfully paired low-income housing tax credits with energy efficient tax credits. In fact, they had -- the built the largest carport, Solar Array, in the State of Texas complex. And it's for senior citizens.

And fortunately, my second life, I have not made that senior citizenship yet. But my first life I'm drawing social security. If it will help you in your decision my dad's 99. I just moved him from Austin to Seguin about three months ago. I move him in over there. We get plenty of senior citizens, I promise you.

But it's something that I think is just very, very important. It's going to be 176 units. And in talking to the mayor and the City Council and the people of Schertz and that -- the western edge of Guadalupe County it's nice to see them excited about this. It's nice to see them excited. We want this project.

And I know there are other people will come before this committee and be asking for some dollars. You and I both know that dollars are tough to come by. But it's something that -- we're in a very fast-growing area.

Schertz has -- in fact, they were trying to get me to move the Guadalupe County -- the County Courthouse from Seguin to Schertz because it's bigger than Seguin now. And unfortunately, I hadn't been able to -- my filter hasn't gotten that clogged yet that I want to make that decision and I want to try to do that, Chairman.

But I just want to come tell you that I'm behind it, the people are behind it. It would be a

marvelous opportunity to fill a void that we do not have.

And you all can make it happen. Don't forget. I'll close by just telling you, Don't forget to go get your physicals. You all look like you're in pretty good shape.

But I would hate to see anybody bite the dust and get paddled 14 times. However, it was fun. That was 11 days out of my life I don't remember. I can promise you that.

But it all worked out.

But somewhere down the line you've got to make tough decisions and I would hope that part of the decisions that you will make that Ashton Senior Village Apartments will get funded. Because it's really, really needed and it's a project that the people want. And when you get those two together in an equation you've got a good equation, you've got a workable solution. And well, I'd just say thank you for your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: We thank you for coming and spending your first anniversary --

REPRESENTATIVE KUEMPEL: That's right.

MR. CONINE: -- here with us today. Just one little piece of advice. Stay away from that elevator.

REPRESENTATIVE KUEMPEL: You know, that's like

the old gents say, Mr. Chairman, when you get knocked off that damn horse you've about got to get back on it. And I -- that's the first elevator I rode. I just wanted to see if I could be a two-time winner.

(Laughter)

MR. CONINE: Thank you for being here.

Colby Denison?

MR. DENISON: Hi. Colby Denison. Luckily, I'm following -- I hate to be following up on that. But at least he was speaking on behalf of my project. Anyway, I'm really just here for just a minute to just tell you all that I think I was one of the first Exchange deals closed in Texas.

And I just wanted to tip my hat to you all and to all the staff that worked with us to get that deal closed. We had HOME funds on that project and we have Exchange funds. And it was a really tricky deal. And it went really smoothly. And we're under construction. And I know there are a lot of people out there that are now employed, getting paid, architects, engineers, subcontractors and everybody. And I just think it's -- I believe that you -- I think we talked a minute ago. I think the Sunset Commission did visit that project. And just know firsthand that you all are doing a really good

service for Texas. And just wanted to say thank you.

MR. CONINE: Colby --

Any questions?

How's the administrative process going. I am curious about the monthly draws, basically. Is it working out okay?

MR. DENISON: You know, honestly, we did HOME fund draws first and then about -- in the last week I've submitted my first Exchange draw and been dealing with Lisa Feir. And she's just been awesome. I literally had to do -- what I was warned was going to be like a major process of kind of reconfiguring the original budget. And she did it in like an hour. So again, hasn't gotten funded yet. But they're working hard. And nothing but happy.

MR. CONINE: Keep us posted on how that goes.

MR. DENISON: Thank you.

MR. CONINE: Thank you.

Mark Gold?

MR. GOLD: Well, good morning. I'm going to be very brief. My name is Mark Gold. I'm with the Texas Department of Aging Disability Services. I'm the Director of the Promoting Independence Initiative there. And I'm here to express our very deep appreciation to the board,

to TDHCA, to Executive Director Mike Gerber, Deputy Executive Director Brooke Boston and all the staff at TDHCA in support of the Promoting Independence Initiative.

For those of you who aren't aware of what PII is, it is the State's response to a Supreme Court ruling in 1999 that says all individuals across disabilities regardless of age have the right to live in their community-based setting.

Texas has one of the most aggressive and most successful responses to Homestead in the entire country. In fact, one of our programs that we're promoting independence [indiscernible] a person is so successful that it was actually incorporated into law under the Deficit Reduction Act. It's now a federal program and actually is one of the very few programs that was included in the Health Care Reform Bill.

Our program is so successful in the State of Texas that we -- over half the participants in the whole country come from Texas. And we couldn't do this without the support and assistance of TDHCA.

The number one barrier for individuals with disabilities -- and we're talking about not low-income, we're talking about the very lowest income, 17 to 19 percent of average median income -- the number one barrier

is affordable, accessible and integrated housing. The support from Mr. Gerber and all the staff here has been so tremendous, more than just in word, but in spirit and in value that you've helped make the program so successful. So we just want to take the time to thank you for all the previous support and hopefully, the ongoing support that you have for this very important project. Thank you very much.

MR. CONINE: Thank you.

Any questions of the witness?

MR. GERBER: Mr. Chairman, if I can just interject?

MR. CONINE: Sure.

MR. GERBER: The feeling is mutual. Mark does an extraordinary job and has been engaged in these issues for many, many years. And we have learned a lot from what he has brought to the table and we're a better agency for it. I wish I could take some credit for it and that Brooke could, as well.

But a lot of the credit goes to Elizabeth Yevich and Ashley Schweikert and Marshall Mitchell and Kay Moore and Stuart Campbell who's been involved in these issues over the years, as well. And so it's been a real team effort and a joy and part of our mission to make sure

that all Texans are fairly, decently and adequately housed.

MR. GOLD: Yes. And there's one other thing. It's wonderful to see sister agencies working well with each other. And I think we have really demonstrated under PII that's a possibility with fabulous results. Over 20,000 people have moved out --

MR. CONINE: Great.

MR. GOLD: Thank you very much.

MR. CONINE: Thank you very much. Appreciate those kind words.

Squeaky wheel? No. Walter Moreau?

(Laughter)

VOICE: Yes. Send balloons and getting --

VOICE: I was going to do that.

MR. MOREAU: Walter Moreau, the Director of Foundation Communities. And I'll be real brief. The -- just two items. We're tonight celebrating a groundbreaking for M Station and you all are invited. Everyone's invited. 4:00 to 5:00 is the program and then the neighborhood block party after that. We don't have shovels and dirt because the site's got a lot of concrete. But we have jackhammers.

And if you want to come out, Kent, and --

MR. CONINE: I'll bring a jackhammer

MR. MOREAU: Yes. We --

MR. CONINE: -- before in my life. Wasn't a pleasurable experience.

MR. MOREAU: The -- anyways, it's -- the Hey Cupcake! man's going to be there. There's good music, some circus performers. I think we're going to have a good time.

The second thing is --

MR. CONINE: Circus around you? Huh. That's interesting.

MR. MOREAU: Yes. Why not?

MR. CONINE: Kind of appropriate.

MR. MOREAU: The -- we have -- I've probably used all the goodwill I have asking for support for the M Station project. But we've also applied for credits on a project that's hugely important to us this round.

We -- we're working to renovate the Shady Oaks Apartments on South Congress. It's nine acres right on South Congress. Important because it's -- we have owned for 20 years the Sierra Ridge Apartments across the street. It's been a great place to live, 100 percent full for a decade. We have watched Shady Oaks slide downhill. It's -- 70 of the apartments are vacant, mostly

uninhabitable. We've been after the owner for years and finally got a hold of it.

The -- we work very closely with the neighborhood-based school. The principal used to be on our board. We send her 66 kids for Sierra Ridge. She's watched the kids for Shady Oaks -- the census drop from 150 to 77 and she's very excited about -- and we're excited about -- the neighborhood impact that we can have on that project. Twenty-four units for families that are extremely low-income or homeless.

I wanted to bring it up -- and we're two months away from tax credits. But we were the top-ranked project still in the Austin region. But there may not be enough money for any project in Austin. There is 400,000 in credits. So we're anxious about it and watching to see what happens with the statewide collapse and where we may all fall out. But hope you'll be able at the right time to support that project. And hope to see you tonight for the -- our M Station party.

MR. CONINE: Any questions of the witness.

MR. MOREAU: Thank you.

MR. CONINE: Congratulations on the groundbreaking.

MR. MOREAU: Thanks.

MR. CONINE: Appreciate you being here.

That concludes the witness affirmation forms I have during the public comment period. We'll move on to the consent agenda.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, sir.

MR. GERBER: Before asking approval of the consent agenda we'd like to pull out Items 1(j), which is the 2010 Emergency Shelter Grant Program awards and Item 1(p), which is the Amy Young Barrier Removal and Rehabilitation Program.

MR. CONINE: Okay. And I wanted to pull Item 1(k) and go over that real quick.

Any other board members have any requests on the consent agenda?

(No response.)

MR. CONINE: I do have some witness affirmation forms on the consent agenda. And let me make sure of something here. Okay.

Let me call up Joe Campion?

MR. CAMPION: Yes. Good morning. I'm with Gulf Coast Interfaith and we're a community advocacy and organizing group in Galveston County and as well as Brazoria County. We've long been involved in the advocacy

side with regard to allocation of dollars for housing from the Disaster Block Grant side.

And we're here to voice our approval and support and to ask the board to support the amendment by the City of Galveston of its Disaster Block Grant dollars.

And we're also in support of the comments made by Architect Michael Gaertner with regard to the visitability statute. And we ask that the board seriously consider granting a waiver -- to Kimberly. If the homeowner does not have accessibility requirements. It helps utilize the dollars that we have to reconstruct that property. And so that's something that we ask the board to do.

Other item -- the two requests that we have to the board -- the Department, we do know that we have as of yesterday in Galveston, the City of Galveston 1,650 applicants for the Disaster Block Grant dollars. There's a similar amount, about 1,200, for the County of Galveston. What's crucial in this process and I ask that the board to consider this very seriously, is make sure that you're geared up staff-wise. Because all this paperwork is going to be coming to you. And they're people that are really giving up hope already with regard to any possibility of getting their home reconstructed.

We have a bit of a lifeline that we're able to

extend to them through our Social Service Block Grant dollars and the limited amount of construction dollars that we have available there. But in terms of the major projects, people are still having water coming through, the house continues to -- all these things, Michael, that you know that southeast Texas experienced in those areas.

So we ask that you be prepared to immediately act upon these applications that are coming in, grant the necessary approvals and have the staff that's necessary to deal with the approval process.

And one last item. In the process we like to hope that in Galveston County and the City of Galveston that we're treated equitably and fairly. Once in awhile, you know, most of the discussions in the -- in our community usually are around FEMA, number one, and usually the Texas Department of Housing at the second. And most often the TDHCA is -- in terms of the discussion comes out ahead of the discussion with regard to FEMA.

Once in awhile, however, there are some glitches in that. And most recently, when the requirement was issued that child support payments would be something that had to be considered with regard to the applications.

That kind of was one of those glitches that was in there. It's not a HUD requirement. And that was thrown out in

terms of this particular approval process. We think that that's just probably something that's unnecessary.

After all, most of the individuals that have child support problems are not individuals that are already residing in their home where you can find them and they're willing to step forward and fill out an application. These are individuals that are jumping from one place to another. And so that was just one of those glitches. And some people's comment was, you know, Bottom line is they're really not interested in helping us out, they're interest -- there's another reason to solicit this information from us from some parts of the community. So --

But once again, we support the City of Galveston's amendment, we ask for your support, as well, too. And we thank you, Michael, and all your department's support in working with us, as well.

MR. GERBER: Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Laura Murrell?

MS. MURRELL: It's a Kentucky mountain name so you just slur it. Displaced Kentuckian but live in Galveston and love it.

MR. CONINE: We can always use a little whiskey around here.

MS. MURRELL: And I am from the Bourbon State. The -- I am co-chair of the Galveston Recovery Housing Outreach Group. I've appeared before you all when you were in the Houston area. We're the ones that walked door-to-door to, I think, 5,000 different houses getting the information out about this program. And we're delighted that we have lots of applicants.

We are concerned that we think that -- what we're hearing that new things keep coming up to slow the process down. And we understand -- you just heard the child support thing, understand that there was a change in how deeds were done lately after 400 applications were received, had to slow down and then after 600, the child support. We hope there are no more such glitches because people need to be back in their homes. Thank you.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Sterling Patrick?

MR. PATRICK: Good morning, Chairman Conine, board members, Mr. Gerber. My name is Sterling Patrick. I'm the Director of Grants and Housing. I'm here on

behalf of the City of Galveston to speak in support of our amendment request. Your staff has been extremely helpful with us.

Sara Newsom, Jennifer Molinero and Candy Anderson have been extremely helpful in identifying areas where we needed to look for possible increased costs and program glitches that we may not have been aware of since this is our first rodeo with disaster. So I want to thank them for their help as they've been very, very helpful in this.

Our program is going very well. You've heard some of our volunteers and some of our activists speak earlier. We've got over 1,600 applications in our Homeowner Rehabilitation and Reconstruction Program. We have over 240 applications in our Rental Rehabilitation Program. Over 1,300 applications are currently in the eligibility review. So far over 1,100 of those have been determined to be low moderate income applications. So there's absolutely no doubt that we will meet our quota in serving the low moderate income persons.

This disaster -- this request for amendments comes at a time that's very important with us this week. With you blessing, if we approve the amendments today, tomorrow we are taking our contractor list to our city

council for their approval. Once that's done by Friday we are ready to order over 200 inspections and work write-ups that will get our program off the ground. So we certainly hope that you concur with your staff's recommendation to approve amendment requests. Again, we are very appreciative of them and their work with us, the City of Galveston.

MR. CONINE: Any questions of the witness?

MS. BINGHAM-ESCARENO: We -- I remember the tours that you took us on and will look forward to coming down and seeing progress.

MR. PATRICK: It will be our pleasure. Thank you very much.

MR. CONINE: Thank you. Appreciate your being here.

MR. GERBER: Mr. Chairman, if I could -- is that the last speaker?

MR. CONINE: That's the last -- yes, on the general consent agenda, yes.

MR. GERBER: If I could just speak for a moment about the child support issue, that is an issue that we are talking actively with the Comptroller's Office with and with the State's Attorney General's Office about to see whether or not that is a requirement. It's certainly

not a requirement at HUD. But -- and there does seem to be some difference of opinion about whether or not it applies to the state as we manage federal funds. So we're working through that issue.

We certainly have taken the strong view that to the extent that this program -- these programs are complex enough and we don't want to add any additional requirements at the state level, especially with this first installment of \$1.3 billion. And so if we can find a way to ease that requirement we're going to try to. So the discussion is active and ongoing and we hear you.

I will say, though, that as many folks in the community know, there is another \$1.7 billion that's coming. We have entered -- we -- a fair housing complaint and an administrative complaint were filed against the state and we have worked through a conciliation process that will impose some additional requirements on the programs.

But we will certainly make sure that Galveston, the Houston-Galveston Area Council and other communities have a strong voice as we work to try to develop a set of standards across programs so that we keep the focus on meeting all the communities' needs for disaster recovery, but also make sure that we're being true to HUD's

expectations because the money's coming from them and it's an agreement that they will be a party to.

So I'll just sort of lay that out there. But we're really delighted by the progress and I agree with you. We've got the best disaster recovery team of any state. So thank you.

MR. CONINE: Okay. With the exception of Items 1(j), (k) and (p) I'll entertain a motion for approval of consent agenda.

MR. GANN: Thank you.

MS. RAY: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Now, back to Item 1(j). Mike?

MR. GERBER: Mr. Chairman, board members, Item 1(j) relates to the approval of the 2010 Emergency Shelters Grant Program applicants based on the

Department's scoring and ranking of the applications. The item was pulled because of Region 8, which is in and around the Waco area, for -- we inadvertently ranked them -- they were ranked properly but we inappropriately and inaccurately reported it in the materials provided to the board.

And so we have an amended award. One of the -- one -- once the applicants originate, were ranked appropriately. You'll note Compassion Ministries of Waco and Twin City Missions were removed from the list of recommended applicants and that Faith Mission and Help Center was added to the list of recommended applicants. Funds were split with Salvation Army of Waco, which is consequently recommended for a slightly lower level of funding. Region 8 is the only region that's been affected by this.

And the staff is recommending that the revised list of awardees be approved and that in addition, we are recommending that the board adopt -- when -- in adopting this resolution that we -- you also add to it that we prioritize Compassion Ministries of Waco and Twin City for consideration when and if additional funding becomes available.

We know that we reported that wrong when the

board book went out. And we don't want to leave them -- we know we're leaving them in the lurch. And if we can try to make them whole by giving them that higher priority the staff would like to do that. We've been in touch with all the applicants. We -- I regret the error. And would ask for your approval of the list of 75 applicants that are recommended to receive \$4.981 million.

It's important to also note that the CSBG funds -- I'm sorry -- the ESGP funds that we're awarding will make a significant difference in helping homeless shelters, domestic violence shelters and other programs of that type around the state. So we're really pleased to be awarding it and commend the staff for their hard work to work through these many, many applications. A lot of long hours went into that.

MR. CONINE: Okay. Everybody get that? The amended list, approved list of awardees for Item 1(j)? Is there any discussion?

MS. BINGHAM-ESCARENO: No public comment.

MR. CONINE: No public comment.

MS. BINGHAM-ESCARENO: I'll move to approve staff's recommendation as presented by Mr. Gerber with the addition of prioritizing those two Waco agencies.

MR. CONINE: Motion by Ms. Bingham. Do I hear

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: Motion carries.

Item 1(k), Mr. Gerber.

MR. GERBER: Mr. Chairman, Item 1(k) is asking for approval and authorization for me to enter into contracts with eligible entities in response to a request for applications that we currently have out for the Weatherization Assistance Program.

The Department has released a request for applications for the Weatherization Program to expand our network of existing weatherization providers for the purposes of fully expending and efficiently expending these WAP dollars. It is planned that by so increasing the number of providers that the Department may complete weatherized units in Texas in a more effective and

efficient manner.

To help process that staff is requesting that I have the advanced authorization to make commitments to eligible respondents to that RFA so that frankly, I can get them out in the field and working. As of today we are surpassing 5,000 units, which is tremendous because at the end of December we had only completed 47 units. So we are well on our way. However, we are concerned and we've been in touch with our servers in the network that we do need to expand the number of providers who are out there.

I'd like for Brooke Boston to come forward and maybe give a brief report on the program and maybe talk just a little bit about that workshop that we did with respondents and how we're going to proceed.

MS. BOSTON: Sure. And I'd also like to clarify something that you said.

MR. GERBER: Good.

MS. BOSTON: The comment was made that it would be for us to enter into contracts at this point. And the process with the request for applications at RFA is a little unusual. Because we anticipate that somewhere across the state some current subrecipient may not fully be able to expend their funds. We don't know where, we don't know who. So it's not as though when we released

the RFA there was an amount of money that we said, you know, Here, apply for this amount to do a specific activity.

Instead, we said, If you think that you could deliver services, either statewide, regionally or in your local area apply and let us know, we'll give you a preliminary commitment, which is what we're asking for permission for Mr. Gerber to be able to proceed with. Based on that, we then still have to have them approved through DOE, Department of Energy, because the list of who are recipients are is part of our Department of Energy plan. And so it has to be submitted to them as a plan amendment.

So by us getting -- using Mike's approval to at least get it sent up to DOE we don't know how long that will take. Which is why we wanted to go ahead and be able to send it, get it to you guys on the next ensuing meeting but not have to wait to send it to DOE.

Then -- and then we'll have an executed commitment with them. That commitment kind of puts them in a pool of folks who are eligible to potentially receive funds. And then similar to a rotation list or something like that, as we start to see funds deobligated from specific areas or we realize there's maybe some extra

money and we want to be able to put towards multifamily we can go through our list and say, You know, you said you could serve the Panhandle area; that's an area where we're looking to add some extra service so we're going to jump to you, RFA respondent. So there may be people who respond to the RFA who never weatherized a unit, which is okay. And there may be folks who weatherize quite a few units.

The workshop that we held for the RFA was last Friday. We had more than 80 attendees. So it was a great turnout. We got really great feedback about the workshops. And applications can start being turned in tomorrow, the 14th.

MR. CONINE: Okay. I just wanted the board to get a clarification of that. Appreciate your explanation. And I think there was a -- I saw a article in front of us this morning about San Antonio saying the Weatherization Program kicking off and doing well and folks were being impacted. So thank you very much for sharing that with us.

Do I hear a motion to approve Item 1(k)?

MR. KEIG: So moved.

MR. CONINE: Motion by Mr. Keig. Is there a second?

MS. BINGHAM-ESCARENO: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

I'll hold off now on 1(p) until the time's right. So --

MR. GERBER: We'll do Item 2.

MR. CONINE: Go to Item 2.

MR. GERBER: And, Mr. Chairman, while we're on letters (h) I might just mention a couple of staff changes that we've had. Sharon Gamble, who many of you know has most recently been the manager of the Housing Trust Fund Program has graciously agreed to go over and become the new manager of the Energy Assistance Program. She got her start at TDHCA in Energy Assistance. And we're very pleased that she has taken on that challenge, along with Michael De Young, who continues to serve as the Director of that division. It's a great team that we have in

there.

MR. CONINE: In baseball they call you the utility infield.

MS. GAMBLE: Really?

MR. GERBER: She's everything. You ran the Tax Credit Program, Energy Assistance, Trust --

MR. CONINE: Good.

MR. GERBER: I would also mention a couple of other staff changes that we've had. Marni Holloway is the new Neighborhood Stabilization Program Manager. She takes over from Rob Stevenson. Rob has graciously agreed to move over to the management team in the Disaster Recovery Division. So we're pleased to have him over there and have Marni in her new responsibilities.

And I think maybe you have met Dee Coupland, who's been the Administrator for the Housing Trust Fund Program. We've promoted her to be the new Manager of the program.

So, Dee, why don't you stand up?

And we're delighted by that promotion, as well.

So --

MR. CONINE: Great. I know getting the right spot is always a challenge. And appreciate the Department's energy toward that level -- toward that end.

Appreciate that.

MR. GERBER: Hopefully, the music has stopped and everybody's in their chairs.

MR. CONINE: For at least a month or two.

MR. GERBER: For at least a month or two.

Moving to Item 2, which are the appeals, you'll note that there was a supplemental board book that was given to you all in which we had an appeal for Eastwood. That has actually been pulled so we're not going to hear that appeal today. The only appeal we'll be hearing is Hillside West Senior.

And we ask Robbye Meyer, head of Multifamily to come forward -- I'm sorry -- Raquel Morales, who's our program administrator to come forward. And Raquel will present her side of this for us.

MS. MORALES: Good morning. Chairman Conine and board, the appeal before you today is for Application Number 1200, Hillside West Senior Apartments in Dallas, Texas.

The application was terminated because the applicant submitted an incomplete application by the deadline. While an attempt to meet the deadline was made the pdf application file that was submitted shortly before the deadline was unreadable and ultimately found to be

incomplete.

At 4:55 p.m. on March 1 the Department received the first attempted submission of a file for a 2010 competitive Tax Credit application for Hillside West Seniors via the Department's FTP server. Shortly after the applicant emailed staff to request confirmation of receipt of the application and staff responded immediately that the pdf application file could not be opened and was unreadable; the file was damaged. So we were not able to access the information within the file.

The Department's activity logs for the applicant's account reflect that a second attempt at uploading a pdf file was made at 11:00 that night and a third final attempt was made the next morning at around 10:00. All three electronic submissions were significantly different in size. So we were unable to determine which was -- which application submission was correct.

The applicant's appeal indicates that during upload of the files to the Department's server a virus on the applicant's computer system affected and -- affected the file and the upload process. As a result of this virus the applicant claims that the application file had to be recreated in order to generate a new pdf file and

insert all of the required exhibits and signatures.

The Department provided the applicant the opportunity to provide evidence of a virus that affected the applicant's computer system that was beyond their control and to show that a complete application was attempted to be uploaded to the server prior to the 5:00 p.m. deadline on March 1. The Department's IS staff reviewed additional information provided by the applicant concerning this appeal and concluded that there was no conclusive evidence to confirm the statements made in the applicant's appeal.

There is evidence that the pdf software used by the applicant did have an application failure on the night of March 1. IS staff was also able to find evidence that the Norton internet security service was started on the night of March 1, which could be an indication that the virus software was installed at that time. The logs that we were able to receive from the applicant only logged fire wall events and there were no anti-virus logs available for March 1, 2010.

So as a result there was no way to determine if a virus had been detected and removed by the software on that date. Most importantly, staff was able to rebuild the file that was submitted to the Department at 4:55 p.m.

And --

MR. GERBER: Not just staff. We had our IS staff --

MS. MORALES: IS staff. Correct.

MR. GERBER: -- one of our IT professionals to go in and verify all of this to see if there really was a problem that existed.

MS. MORALES: Right.

MR. GERBER: And they determined that the file was not of the same size.

MS. MORALES: It was not. It was significantly smaller in size to the application that was ultimately filed the next day on March 2. The rebuilt file was 183 pages as opposed to the final file, which was 449 pages.

Also, once IS staff was able to rebuild the file we went through and we found a lot of missing support documentation, a lot of signatures that were required. So the file was incomplete.

DR. MUNOZ: The 183 page file or the 449 page file?

MS. MORALES: The 183 page file was the rebuilt file. And that was the file that was submitted at 4:55 p.m. So they made it -- that was the file that was submitted by the deadline.

So given that the file that was rebuilt by our staff -- we went through it, there were a lot of signature -- you know, it wasn't a complete application file ultimately, whatever they filed at 4:55. So as a result, we determined that it was incomplete at the time that it was originally submitted. And staff recommends denial of the appeal.

MR. CONINE: Okay. I have three --

Any questions of Ms. Morales?

MS. BINGHAM-ESCARENO: I'd rather wait and --
for the --

MR. CONINE: You want to hear some --

MS. BINGHAM-ESCARENO: -- comment and then --

MR. CONINE: Okay. All right.

Hang around.

MS. MORALES: Okay.

MR. CONINE: Kelly Herrod?

Terri Anderson?

Brandon Bolin?

In any particular order.

Terri Anderson --

MS. T. ANDERSON: : Yes, sir.

MR. CONINE: -- goes first.

MS. T. ANDERSON: : Good morning, Chairman

Conine, members of the board and Mr. Gerber. I appreciate the opportunity to appeal the termination for Application Number 10200, Hillside West.

As indicated in a letter submitted previously to the Department, there was a critical error message and a fatal error message received during the file upload of Application Number 10200 which caused all computer program applications on my computer, with the exception of FileZilla and Internet Explorer to shut down.

After receiving the email from TDHCA staff that the file was corrupt I went back to locate the file and it was not in the electronic file that it was saved in. Once I was able to recover that file there were -- everything was stripped from it, including the electronic signatures that were on the file, the pages that were supplemented behind each exhibit, et cetera.

It took me seven hours to actually recover the file and try and reinstate the -- an original file that was provided. What I ended up having to do is upload a second file that was still corrupt. I received an additional error after seven hours working on it.

And the following morning, quite frankly, I completely reprinted, all of the excel files were inserted, all of the text boxes, all of the signature

pages and all of the exhibits associated with the application. So there were three separate attempts. I was finally able to manage with the third attempt to get all of the information provided.

And I guess the most important thing that I need you all to know is that I didn't try to supplement any information. I tried to present the exact same information on three separate occasions. And there was something that was completely outside of my control with regard to electronic corruption that I couldn't fix or change. So I'm terribly sorry that we waited until 4:55 to upload the application. We were trying to make sure that everything was in order according to the ASPM and took ample time. I had uploaded another file earlier in the day. Didn't have any issues. Didn't foresee any issues.

MR. CONINE: How big was that file? Was it -- page-wise? Do you remember? Same 400 and something pages?

MS. T. ANDERSON: : Correct. It was. And the file -- I used the computer software. It's PDF Scan Pro Soft. And that computer program, as well as my excel computer program all shut down. And there was, you know, no reason. But I'm getting all these errors in the file

that was uploaded was corrupt and every electronic component of that file had been stripped.

MR. CONINE: Okay.

Any questions of the witness?

DR. MUNOZ: Well, let me ask.

MR. CONINE: Dr. Munoz?

DR. MUNOZ: You know, for me -- so your response to -- for me is a fundamental assertion that the initial file was much smaller and compromised and incomplete to the final 449 page version. Your claim that the original file that was reconstituted to be 183 pages was, in fact, originally complete?

MS. T. ANDERSON: : Correct. It was uploaded as 183 pages. Actually, the corrupt file that was pulled back down only had that 183 sheets. And actually, when I initially pulled it back down from the TDHCA web site it listed as more pages than the 183. And the architectural files were not in -- they were behind Volume 3, I believe, is where the corruption cut off. And all of those files had been loaded to the back end of that electronic file and everything else had been swept from it.

So I tried to upload a complete file that had all of the exhibits and all of the other information. My computer actually showed a fail error. I ended up running

Norton Anti-virus on it. It said that all of the pdf applications and the programs were vulnerable. I couldn't duplicate the message that I received. And it wasn't --

DR. MUNOZ: And earlier in the day was it seven -- how many applications had you uploaded earlier in the day?

MS. T. ANDERSON: : I'd only uploaded one other application --

DR. MUNOZ: One other --

MS. T. ANDERSON: : -- earlier in the day.

DR. MUNOZ: -- application.

MS. T. ANDERSON: : Correct.

DR. MUNOZ: All right. And --

MS. T. ANDERSON: : And I did not have any issues with that one application at all.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MS. T. ANDERSON: : Thank you, sir.

MR. CONINE: Kelly Herrod?

MR. HERROD: My name is Kelly Herrod. I own an IT consulting firm in Dallas, Herrod Technology. I was called in for Ms. Anderson to check out her computer after

she was having trouble uploading the file and just to kind of scan over the computer, try to figure out what was going on, make sure, you know, everything was fine with the document and with her computer.

In scanning everything I did see in the logs where her computer did have fatal errors on the date and time of the upload, as she stated. That was really about all I could see was that there were fatal errors. There was not much more detail in that.

We did log into the TDHCA server. We did see the file with the date and the time stamp that was previous to the deadline that she had uploaded. That was the file that we actually copied back down from the TDHCA server to look at. We pulled that down. There were about a hundred and -- there were 183 pages, as Ms. Anderson stated. There were actually quite a few more that we weren't able to see.

But in discussing this with the IT support group here they did have troubling opening it with the Adobe Acrobat Reader, which is kind of the program that everybody uses for that. But we were able to open the file with Ms. Anderson's pdf software that she uses to put the application together. And that's who we were able to view the pages.

So while I know when you tried to open it here it basically would not open at all, you couldn't see any pages. And it was the same for us if we tried to use the Adobe program, as well. But we were able to open it up in the application, see the pages, see that there were quite a few more there that were corrupt. And I was able to pull --

DR. MUNOZ: Quite a --

MR. HERROD: -- that information.

DR. MUNOZ: Quite a few more of what? Quite a few more than 183 pages?

MR. HERROD: Yes. There were quite a few more --

DR. MUNOZ: Because you say -- you said earlier, There were more pages there but we couldn't see them. If you can't see them how do you know they're there?

MR. HERROD: It showed us place holders for those pages. And if you scrolled through the document the pages would go by within the application. It would tell you you're on page 250 of 483. But there would be nothing there or it would just show a little square with, you know, basically a blank page. So the page was there, it just didn't show any data, which was, you know, obviously

some kind of corruption with the file. And obviously, with the file size it was not totally there, as well.

So --

MS. BINGHAM-ESCARENO: I have a question.

MR. HERROD: Yes.

MR. CONINE: Question?

MS. BINGHAM-ESCARENO: Is it possible that the first -- that original file that was corrupted -- is it possible that it could have been 400 and something pages?

MR. HERROD: Yes, it is very possible, actually.

MR. CONINE: Any other questions of the witness?

DR. MUNOZ: And you -- and you're saying when you made a copy, when you went to the TDHCA server and made a copy and downloaded you were able to see in excess of 183 pages, many of which were simply blank?

MR. HERROD: Correct. Yes. I pulled the exact file down that she had uploaded just prior to the deadline so that we'd be working with the same file. And, yes, I was able to open that up in her pdf application. I was actually even able to open it up on a Mac computer with its pdf application. It had some other problems. It didn't see as many pages. But her pdf application that

she used to create the document showed over 400 pages.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you for your testimony.

Brandon Bolin?

MR. BOLIN: Good morning, Mr. Chair, board members. My name's Brandon Bolin. I'm an attorney and I'm a partner in the applicant entity for the Hillside West project.

I wanted to just make the point that on March 1 not only were we prepared to meet all of the requirements of the March 1 submission deadline, we were also prepared to meet all of the April 1 submission deadline requirements, including the third party reports, the political letters of support.

We got a letter of support from Roberto Alonzo, who's the state legislator in this district. We also got a letter -- a supporting letter from Rafael Anchita, who's on the Sunset Review Board of the TDHCA. He wrote a letter of support hailing this project as a lead certified green affordable housing project, the type of projects that TDHCA should be supporting.

So I want to make the point that if there's any sort of doubt that we weren't prepared to meet the

requirements of the March 1 deadline, not only were we prepared the March 1 submission deadline requirements, we were prepared to meet the April 1 submission deadline requirements on March 1.

In closing, I'd like to also say that on the day of March 1 at 3:54 p.m. -- I know this because I just checked my email -- and I don't erase emails -- we got a letter from a TDHCA staffer at 3:54 asking for supporting evidence on the experience certificate qualifications. This is stuff that probably should have been done early in February. But at 3:54 when we're trying to upload our application we're being asked for supporting documentation on the experience certificate requirements.

So I just want to make -- I wanted to come here and make the point that not only were we prepared to make the March 1 submission deadline requirements, we were over-prepared and we were -- we had every -- all of our ducks in a row for the April 1 submission deadline, as well. Thank you very much.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Thank you.

MR. GERBER: Mr. Chairman?

MR. CONINE: That's all the witness affirmation

forms I have.

Mr. Gerber?

MR. GERBER: I would just say this is a very tough case. And this is one of the very few of these that has come to you this year. We've [indiscernible] these award and staff level and have looked really for every way possible to address these kinds of issues when they've come up. And we've made it very clear throughout the various workshops that we did that submitting it through the FTP but also submitting it in hard copy was very appropriate and acceptable. We also made it clear, Don't wait till a minute till -- you know, before 5:00 to submit it.

Those that had problems we have tried to work through those problems. And we had several that we worked through and that we approved the appeal. And there were some that we couldn't get across the finish line. This is an unfortunate one because it serves a very worthy population. And I know the team that's involved and they -- you know, we know of their commitment.

However, there are equally strong projects that are right behind it and -- that will get bumped. And they were fully compliant. This is a hard one. Because when the case came up in a very unusual circumstance we asked

our IT staff to go and to look into this.

And Larry Mercadel who -- wave his hand in the back has been with us for a long time and is as good as they come in the IT world, and Curtis Howe, who heads up our IS division were tasked with trying to see what they could see. Because we were again, looking for ways to get them across the finish line.

I wish we could have. It's unfortunate. But again, staff would ask for the board's support to deny this appeal. And we look forward hopefully, to working with this development team and hope that they'll resubmit next year.

MR. CONINE: Okay.

Any other discussion, questions?

MS. BINGHAM-ESCARANO: I just -- I have a -- I'll make a motion. But I just wanted to say that I really commend the staff for -- I know my nickname in college was, "Last minute Leslie." So I know about all those getting things in or trying to get them in right under the wire. And I noticed in the report that the staff, as soon as the staff realized that the file didn't come through very well, that they opened that communication.

I guess, you know, I struggle with whether or

not a computer glitch is kind of a like a force majeure, you know, something that we just can't, you know, control.

And I'm in awe of the IT folks that know way more than I do. And I guess, you know, to me what it comes down to is I think what we're -- what, as an agency, we were trying to ascertain was, was that original one that came through complete or not. And what I understood from the report -- and Raquel, you can clear it -- clear that -- was we couldn't really ascertain that the first file was uploaded incomplete. We ascertained that we didn't get the whole thing and that there were weird deals where there were specific things that were missing. But I haven't heard anybody say that we are sure that whatever Terri sent was not complete that first time around. And --

MS. MORALES: We -- yes, we -- Larry was able to rebuild the file and I believe the applicant also rebuilt the corrupted file that they pulled down. Both are equal size. And that rebuilt file was incomplete. All of the information that would be required in an application, not just the signatures, the supporting documentation that's required in Volume 3 was -- it was not there. So had that been the file and we would open -- it would have been incomplete, we wouldn't have been able to complete a review, it wouldn't have been able to

thoroughly score it. There was nothing there.

MS. BINGHAM-ESCARENO: Did we look at the third one or did we just decide since it was, you know, past the time line that we just weren't going to audit that one, the 400 page one?

MS. MORALES: I did look at the third one, which is the last attempted -- the last file that they uploaded. And everything appears to be -- you know, without doing the thorough review that we do on our side, the signatures were there. The supporting documentation primarily was there. And the selection part of the application, as well. All of that supporting documentation was there in the third submission.

MR. CONINE: Were the pages on the first one that was -- that you only got 183 pages on, were they numbered in the sequence that was alluded to earlier, like page 142 out of 453 or whatever it was?

MS. MORALES: No. I only saw the 183 pages. I didn't look for the numbering sequence to see if it reflected 183 of 400 pages.

MR. CONINE: If you were to go back and look -- I mean --

MS. MORALES: Maybe that's a question that Larry can ask -- can answer. I'm not --

MR. CONINE: Anybody else have a stab at that?

MS. BINGHAM-ESCARENO: Would Larry mind coming up?

MR. CONINE: And while he's coming up I got one more witness affirmation form that has just recently been handed to me on this subject.

VOICE: Good morning, Mr. Mercadel.

MR. MERCADEL: Good morning.

MR. CONINE: Your name for the record?

MR. MERCADEL: My name's Larry Mercadel. I'm the network administrator for TDHCA.

MR. CONINE: Okay. Did you -- in looking at the file, could you tell whether it was page 143 out of 462 or --

MR. MERCADEL: No, sir.

MR. CONINE: -- like that?

MR. MERCADEL: Not off -- I don't know if I actually looked for that particular piece of information.

MR. CONINE: Okay.

MR. MERCADEL: Once I opened the files, basically just seeing if you could open the file and browse through the file. I'm not as familiar with the applications as Multifamily is. So I wouldn't really know what I'd be looking for.

MR. CONINE: I don't blame you. It's brain
damaging --

(Laughter)

MR. CONINE: Any other questions of the
witness?

(No response.)

MR. CONINE: Sarah Anderson?

Let me get one more witness affirmation up
here.

MR. LEVINE: Mr. Chairman, if you accept
another witness you need to recognize that you're waiving
the three-witness rule.

MR. CONINE: Oh, I guess I am. Okay.

MS. S. ANDERSON: And actually, my name's Sarah
Anderson, S. Anderson Consulting. And I don't have a dog
in this fight and I don't know anything about this
particular issue.

But hearing her describe what happened with the
computer files, we did have almost the exact same thing
happen. We had three of ours that on the last day at noon
we thought were complete. And we went back through and
there were lots of blank pages. I think what was
happening was that the size of the files were so large and
we were bringing in pdfs from a lot of different places

that they were getting corrupted. So we had to rebuild three at 1:00 on the due date. And we ended up actually driving it up because we were concerned about trying to upload. So --

I don't know anything about this case but I would say that it's not -- what she's describing is not unusual. The -- at some point the file gets corrupted and everything that you think you've put in there just doesn't show up. And you go to someone else's computer and it might. But pdf for a lot people, were having some of these issues. So --

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

For the record, I'd state that I didn't waive this three-person rule. I'd classify her as neutral.

MR. GERBER: Mr. Chairman --

MR. CONINE: Yes?

MR. GERBER: -- I would just note that I think Sarah makes a good point. And we are continuing to strive to work out kinks that we've had each year. It's just an ongoing process of -- it's an ongoing effort in process improvement. And we regret the fatalities that some folks

have had, which is also why we've tried to take a more lenient approach.

I'd also like to say that I've know Terri in particular for a long time. And she is a person of great integrity. And I know that a lot of hard work and effort was made to -- and she does the things she says she's going to do. And so I regret that this has happened, you know, on a project that involves, you know, a team that, you know, really does have a lot of capability and skill. And I just want to put that out there, as well.

MR. CONINE: Okay.

MR. KEIG: I move to approve the appeal to reinstate this application.

MR. CONINE: Motion by Mr. Keig to approve the appeal. Do I hear a second?

DR. MUNOZ: Second.

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

(No response.)

MR. CONINE: Then all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

No --

MR. GANN: No.

MR. CONINE: Oh, we do have one opposition.

Motion carries.

All right. I'm going to go back to 2 -- I mean, 1(p).

MR. GERBER: Yes, sir.

MR. CONINE: Going back to Item 1(p)

MR. GERBER: 1(p).

MR. CONINE: Mr. Gerber, Housing Trust Fund.

MR. GERBER: Mr. Chairman and board members, for Item 1(p) we're going to do something special. This item is to approve awards for Housing Trust Fund Architectural Barrier and Removal Program. And I'd like to invite Amy Young's family to come forward. We're very pleased to be joined by them.

And come on forward, if you would.

And Brooke and I are going to tag team on this a little bit. The program is one that may not ever have come about without the prompting of a very strong advocate, Amy Young, who worked for the Texas Council on Developmental Disabilities. Amy passed away before she was able to see that this program was instituted. And today we'd like to name this program and make these awards in Amy's honor.

First, I'd like to ask Brooke Boston, who has worked so closely with the Disability Advisory work group for many years to come forward and say a couple words and introduce her special guests.

MS. BOSTON: Thank you. And if it's okay I'm going to face that way just because of the nature of --

MR. CONINE: Go right ahead.

MS. BOSTON: -- what we're talking about. I'm actually speaking from my notes today. So Amy was a fabulous person to work with at TDHCA, in association with working with the TTA. And we were very, very shocked by her loss.

I worked with Amy regularly on disability advocacy issues. She was an active member of our Disability Advisory work group. She was persistent and very inquisitive in her efforts to make sure she understood the whole picture of any given housing policy.

And we talked about a lot of different housing policies at the DOL. And almost everyone made sure she got it. And then whatever our answer was, if it was no, she'd keep poking away until she made sure she got it enough to make sure the answer could be yes. Which is, you know, exactly what you want in a strong advocate.

She was very tenacious in that way and was

really strong about educating herself. And she was never argumentative. She was just always very diplomatic, but also just wouldn't take no for an answer very well. So -- which is -- just made her very wonderful to work with. And she's been sorely missed since then.

Specifically, one of the things that Amy worked on was the expansion of our Housing Trust Fund Program. Specifically, to try and create an activity that would -- architecture barrier activities occur in homes for people with disabilities without a lot of the federal regulations that have made our architectural barrier a little hard with other programs.

So she -- both between the funding source and the presence in the DOL she was really able to kind of put the pieces together and helped with the other members of the DOL, really helped to make sure that we didn't just let this program be a conversation. It was a program that she kept coming up and coming up until we really got it done.

Barrier removal, for those of you who don't know, is something that let's for a home where there's a person with a disability remain busy and have full access to their unit. It lets them get in and out of their doors, whether that's a ramp or door lets, cabinet

heights, counter heights, documents disability.

And so the program really gets to the -- and it's for individualized activity. The needs of one disabled person in this regard would be very different from someone else. And she was very persistent about making sure that we didn't just make this one-size-fits-all program of, Well, here's the model and here's what the regs say and this is what you can do in the unit. She really pushed that it had to be individualized.

And unfortunately, before we were able to release the program Amy passed away. But TDHCA believed it was an excellent use of the funds and we did program the trust fund for that activity -- programmed it that way. The notice of the funding bill went out several months ago. And so today we're actually able to make the award, awarding 1.9 million. And it's going to serve more than 150 families across Texas in having accessibility to their home. And so we're honoring Amy by naming the program in her honor.

And I know Mike wants to talk a little more.
Sorry, I'm --

MR. GERBER: No.

MS. BOSTON: -- a little shaky about this.

MR. GERBER: No. And appropriately so. Amy

died far too young. She was tough. She was kind. She was passionate. She was someone who really wanted programs to work very effectively for disabled people. And she pushed us as a department to be better in a lot of ways than we were at the time. And I'm very proud of her leadership and effort. And I know that it's been a huge void within the disability community to not have her presence there as an advocate.

But hopefully, this -- by naming this program after her it's just one additional thing that we can do to have the spirit and hard work that she embodied live on and continue to make a real difference in the lives of disabled people across the state.

We're really pleased to be joined by Amy's partner, Kay Crosswaite and her sister, Polly, who's here with us today. And I know we've had a couple of other folks who would like to speak, would like to enlighten you, to say the first words, if you'd like to and tell us a little bit from your perspective, if you'd like to. Or -- I know we've got John Morris, also from the DE Council who is, I know, going to say a few words, as well.

Maybe ask John to come up first and say a couple words? I know he's back there somewhere.

KAY: As Amy's partner, I'd like to say that

she would be awestruck by this honor. And Amy's focus in life since she was just a child was to make a difference.

And I think that she would be, like I said, awestruck that she's made such a significant difference. And she made it in a community, a community of people that are all striving for similar things. And it just goes to show that even when you're working for different agencies that there are ties, there are cross ties.

And I think we -- think she would like a message and such that you all are making a bigger difference than you think. She had no idea that she had made such a difference. I hope that you all know in the services that you provide for people that it's making a big difference.

Her parents are actually dealing with some physical disabilities themselves right now. So we're very aware of the challenges.

MS. BINGHAM-ESCARENO: Thank you very much.

KAY: Thank you very much for allowing us to be a part of this honor for Amy. We're honored to. Thank you.

DR. MUNOZ: We are, as well.

(Applause)

MR. GERBER: John, why don't you come up

forward and say a couple words. And I know there are maybe some other folks who would like to say a couple of words --

MR. CONINE: I also have Jean Langendorf as a witness affirmation.

MR. GERBER: Jean? Oh. Tremendous. Well, John, then we'll go to Jean. And as is too often the case, sadly State Capital is not always geared as well as it should be for persons with physical challenges. So I apologize, John.

MR. MORRIS: I don't know if I can speak as loud as everyone else. Well, first of all, I'd like to thank Mr. Gerber, Chair Conine and the board of Texas Housing -- Texas Board of -- I'm nervous -- members of the board of Texas Department of Housing and Community Affairs and also, Mr. and Ms. Young who are not here today, as well as Kay and Amy's sister, Polly.

My name is John Morris, council member of the Texas Council for Developmental Disabilities. Amy worked at TCDD only two short years. Members of TCDD council and coworkers and colleagues greatly respected Amy and we still miss her deeply.

To describe Amy's advocacy let me borrow from author David Bornstein. Amy looked at good ideas like a

play. It is said a play needs a good producer and a good promoter even if it's a masterpiece. Otherwise, the play may never open or it may open but for lack of an audience close after a week.

Amy knew an idea would not move from the fringes to the mainstream simply because it was good. It had to be skillfully marketed before it would actually shift people's perceptions and behaviors. She marketed her ideas with intellect, enthusiasm, quick wit and always with her boots on just in case reason and politeness didn't work. She wanted to make a difference in the world and she did.

I can personally think of no better appropriate recognition on her behalf of Texans with Disabilities than naming the Texas Department of Housing and Community Affairs Architectural Barrier Removal Program in her honor. The Amy Young Barrier Removal Program is a bold, creative answer to community integration. Housing is the foundation for our lives. But this foundation collapses if your home is not accessible to you. You risk injury or being placed in a nursing home or other institution.

With grants from the Amy Young Barrier Removal Program that TDHCA will and has awarded today Amy's play has opened and it's a masterpiece. And the play will not

close next week. The individuals who receive these Amy Young Barrier Removal grants and those who get grants for years to come will have their homes made accessible to their individual needs so that they will be able to continue to live in their homes, play out their life dreams and goals and add to their communities. Thank you once again for recognizing this great advocate.

(Applause)

MR. GERBER: Thank you, John.

Jean?

MR. CONINE: Make sure John signs a witness affirmation form.

MS. LANGENDORF: I just want to say thank you for recognizing Amy in such a way from all of us in the advocacy community. I want to say thank you, also as -- hopefully, with your vote -- a recipient through Easter Seals of Central Texas to utilize some of these funds to allow people with disabilities to live more independently in their community and in their home.

We were really pleased to learn that we were being recommended under this program. But now it's such an honor that we will be able to carry on Amy's legacy. And in all my many years of -- I thought my voice would be a lot louder -- of promoting this, along with Amy,

alongside Amy, I'm just so happy that now it's been raised to the level and that we're going to have the kind of funding that's going to allow us to address the needs of the person, based on the person, not on some other regulation or some requirement that HUD or somebody else seems to think is needed in a person's home; that we can address their needs to allow them to live as independently as possible. Thank you all so much.

MR. CONINE: Thank you.

(Applause)

MR. GERBER: I'd also like to acknowledge Amy's colleagues at the DD council who may be here. Would you just raise your hand and -- we're pleased you're here, as well.

And I think I can hear Amy saying, Enough talking, award some money. And so with that said, Mr. Chairman, we'd ask for the board's approval to award the first Amy Young Barrier Removal Grants to Arkansas-Texas Council of Governments in the amount of \$225,000; the East Texas Council of Governments in the amount of \$225,000; Easter Seals of Central Texas, \$135,000; Habitat for Humanity of Smith County, \$225,000; The Southeast Texas Regional Planning Commission, \$225,000; the Coastal Bend Center for Independent Living in Corpus Christi, \$225,000;

Meals on Wheels and More, \$225,000; and Easter Seals of Central Texas, \$225,000.

Those amounts total \$1,710,000. And then we're recommending an additional \$190,000 to be disbursed among them for administrative costs associated with the program.

And we are delighted that these were the first eight recipients. We know that they will perform admirably for this tremendous -- being the first recipients of this and be worthy of it. And we're excited about hearing about the 154 homes that will benefit from it.

Brooke, anything else you'd like to --

Oh, and we have a little something for Amy's family. And I'd like to -- first, let's do the motion, if we can, Mr. Chairman. And then after that we'd like to present something to Amy's family and ask the recipients of funds who are here and Amy's colleagues to come forward to take a picture with the board and have you present the list to her.

MR. CONINE: Okay. I know Ms. Ray would like to address this issue.

Ms. Ray?

MS. RAY: Thank you, Mr. Chairman. I'd like to ask the members of the DOL to please raise their hands, stand if you can so that the people that are in attendance

here can see the hard work, the persistence, the advocacy and the education that they have brought to us as members of this board.

When I first became a member of the Texas Department of Housing and Community Affairs we did not have the DOL. We did not understand. We did not listen with our listening ears. It is because of the work of the members of the Texas Department of Housing and Community Affairs that work from the inside and those that are advocates from the community that have helped us to do a better job to make sure that all Texans are considered.

Now all members of the disability community are sitting at the table as we make policy for all Texans so that they are considered and we understand the need. I'm so proud of the work that Amy did for the citizens of Texas and just as importantly, all of the members of the DOL, both in the Department and those that are in the disability community for helping us to have the scales removed from our eyes so that we can do a better job for all God's children among us.

And thank you to her family.

And just as importantly, thank you to our Executive Director, Brooke Boston, the members of the DOL within the Department that are doing so much better job

than they were doing when I first came on the board. And to that I say, God be in glory.

Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff's recommendation to name this award in Amy's honor.

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

MS. BINGHAM-ESCARENO: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All in favor -- you did -- all opposed?

(No response.)

MR. CONINE: There is none. Motion passes.
Thank you very much.

(Applause)

MR. GERBER: If the recipients who are here would like to come forward and members of the DD council and board members, why don't we gather right down here and

we'll snap a couple pictures. And then, Mr. Chairman, would it be appropriate to suggest a five-minute break?

MR. CONINE: Yes. We're going to take a five-minute break.

Okay. We're going to take a five-minute break right quick. And also, we'll be breaking for lunch, too. And for about an hour at lunch.

(Whereupon, a short recess was taken.)

MR. CONINE: Okay.

MR. GERBER: Mr. Chairman, I would note that are no other appeals under Item 2 and we're ready to move to Item 3.

MR. CONINE: I want to clarify that we -- that Ms. Ray's motion actually both approved the awards for the dollars that were listed there, along with renaming the program, as well. Just to make sure there's no question.

Okay.

MS. RAY: Thanks for the clarification, Mr. Chairman.

MR. CONINE: Yes.

Where's the Bond Program. You want to go there next?

MR. GERBER: Yes, sir.

MR. CONINE: Get some of the higher-priced

people out of the room?

MR. GERBER: Mr. Chairman, Item 3(a) is a presentation, discussion and our hope for approval of Resolution 10-020 authorizing application to the Bond Review Board for reservation of 2010 Single-Family Private Activity Bond authority in the amount of \$208,212,971 and 2009 Single-Family Private Activity Bond authority carried forward in the amount of \$25,752,666.

Mr. Chairman, we're asking your approval of Resolution 10-020 authorization application of the Bond Review Board in those amounts and application for reservation of TDHCA's Private Activity Bond authority or volume cap must be made with the Bond Review Board.

Staff is requesting permission to draw down TDHCA's 2010 Single-Family Annual Private Activity Bond authority again in that amount of \$208,212,971 and again, 2009's Single-Family Annual Private Activity Bond authority carried forward in the amount of \$25.7 million.

We anticipate using this amount with the conversion of the Treasury's New Issue Bond Program or NIBP. And staff is recommending your approval of resolution 10-020.

Tim, is there anything you want to add to it?

Tim Nelson's our Director of Bond Finance.

To answer any questions?

MR. NELSON: Good morning, Mr. Chairman,
members of the board.

MR. CONINE: Good morning.

MR. NELSON: No. I think this one's pretty
straightforward. If there are any questions I'll address
them. The --

MR. CONINE: Any questions of the staff at this
point?

MS. BINGHAM-ESCARENO: Move staff's
recommendation.

MR. CONINE: Motion to approve --

MR. GANN: Second.

MR. CONINE: -- by Ms. Bingham. 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: Motion carries.

MR. GERBER: Mr. Chairman, Item 3(b) is asking for the board's approval of Resolution Number 10-021 authorizing our application to the Bond Review Board for reservation of Single-Family Private Activity Bond authority in the amount of up to \$120 million for our Mortgage Credit Certificate Program for first-time homebuyers.

TDHCA released its most recent MCC program in January of 2010 and since its release 7.2 million has been issued or reserved and staff anticipates that all funds will be utilized by the fall of 2010. Therefore, we're requesting approval of this resolution which will allow us to continue issuing new MCCs and keep the pipeline full.

Because of the success of our current MCC program which utilized \$120 million in volume cap which translates into \$30 million in mortgage credit certificate authority, we're coming back to the board for approval of yet another \$30 million in that authority. So we're asking for resolution of -- asking for your approval of Resolution 10-021.

Do you want to add anything?

MR. NELSON: No. I think this one's straightforward, as well. I'll address any questions.

MR. CONINE: As long as we got low interest

rates we need these certificates.

MS. BINGHAM-ESCARENO: Yes.

DR. MUNOZ: True.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Do I hear a motion to approve?

DR. MUNOZ: Motion by Dr. Munoz. Is there a second?

MS. BINGHAM-ESCARENO: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and board members, Item 3(c) is approval -- discussion and possible approval of the Department's Interest Rate Swap policy. And I know I am already over my head. I'll let Tim walk through that one.

MR. NELSON: Thank you, Mr. Gerber.

I think, as the board is aware, we have a number of swaps outstanding that we entered into between 2004 and 2007. We do have a swap policy that outlines, you know, how we analyze and implement those swaps. And under our rules we're required to have the board approve those swap policies on an annual basis. Last time the board approved our swap policy was in January of 2009. And so I know there have been changes over time.

Primarily, this year we made some changes to the reporting requirements to implement or line our policies with GASB 53, which is going to be a requirement that comes out, I believe, effective with our audit this year. And to also put some reporting requirements in for -- to align us with the Bond Review Board requirements.

And I believe we have Gary Machak with Raymond James here today, as well. And I think Gary would like to make a few comments if the board is in agreement.

MR. CONINE: We'll let him --

MS. BINGHAM-ESCARENO: Sure.

MR. CONINE: Go right ahead.

MR. MACHAK: Thank you, Ted.

Mr. Chairman, board members, Executive Director, just briefly, Tim was correct with regards to

the amendments. Couple of the amendments are some things that we've learned over the last few years. But most of them are not transaction orientated. They are required by accounting standards and the requirements by Bond Review Board.

And one was with regards to something that may have come up with Lehman Brothers. And again, Lehman Brothers is not one of our counter-parties. But we've all learned something from that process. And so we put some extra safeguards in our policy with regards to that.

Lastly, just wanted to remind you the reason why we entered into these swaps was because we were able to get a advantage in the market rates for our loans. Our loans were able to originate much faster and the Department was also able to experience better cash flow and higher fees.

Our swaps, even though we've had a change of liquidity and at one point our bonds were not trading where they -- we thought they would versus our swap, they are back to the effectiveness that we predicted. And right now that effectiveness is in the high 90 percent, 98 percent range. So things are working as we anticipated with those.

MR. CONINE: Okay. Any questions of either

Gary or Tim?

MR. GERBER: Mr. Chairman, I --

MR. CONINE: Yes?

MR. GERBER: I'd just ask Gary this.

You obviously made your financial services reform that's, you know, being considered in Congress. Any changes that you would anticipate additionally coming to our swap policy and other policies that just are on the horizon to sort of give the board --

MR. MACHAK: We are --

MR. GERBER: -- a sense of that?

MR. MACHAK: We are watching that. If that does pass, especially the -- I think it's the Lincoln bill portion of that, there will be some substantial changes with regards to our swap policy and to what will -- what may be required for us in terms of putting up collateral. So we are aware of that and we are discussing what the implications of that may be.

I know that there's been letters sent by, for instance, Texas Veterans Land Board with regards to that bill and their opposition to certain provisions of that.

MR. CONINE: Yes. I think the real issue is whether they go backwards or whether they just go into the future with --

MR. MACHAK: Yes.

MR. CONINE: -- future swaps and whether that amendment --

MR. MACHAK: That's right.

MR. CONINE: -- affects those. So --

MR. MACHAK: If they -- if -- you're right. If it's retroactive then we will be affected.

MR. CONINE: Okay. Any other questions?

(No response.)

MR. CONINE: Do I hear a motion?

MR. GANN: I make a motion we approve the Resolution 10-023.

MR. CONINE: Thank you, Mr. Gann.

Is there a second?

DR. 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: Motion carries.

MR. GERBER: Tim, why don't you go ahead and present Item 3(d)?

MR. NELSON: Item 3(d) -- we're asking for approval of Resolution 10-022 authorizing the sale of mortgage certificates and redemption of related bonds from our Residential Mortgage Revenue Bonds Series 2000A, Series 2000BCD.

In these transactions when we issue the original bonds typically after ten years the Department has the right to come in and you can either refund the outstanding bonds, sell new bonds or typically, a second thing that you can do is sell the underlying assets, take advantage of market conditions. The board actually has done this before. In 2004, I believe, we effected an NBS sale. And again, that's what we are looking to do here.

We've got about -- on the 2000A transaction we've got about \$13 million worth of outstanding bonds. On the 2000BCD there's a little over 50 million in outstanding bonds. And this resolution would authorize George K. Baum, who is one of our underwriters, to be our NBS investment banker and assist us along with our financial advisor and structuring agent and the rest of the working group to help effect this sale. We've got Mark Krassner and Scott Riffle with us today from George

K. Baum.

And again, I think in the end, as has probably been the case when we've undertaken these transactions before, the goal of this transaction would be to ultimately strengthen the arm R&B venture and allow us under that indenture to free up seven-and-a-half million that we could use to fund second-lien mortgages that could be used in conjunction with the 2010 program the board approved in March. And so I think that kind of gives you the general overview.

I would point out or note for the board that on advice of counsel we have a couple of minor changes to the resolution that went out to the board. And so I'd like to point those out to you. We've added to Section 1.1 and Section 1.3 that in addition to redeeming bonds and paying any costs we've added that the -- pay costs of the transaction to make it clear that it's just to pay costs related to this transaction.

And we've inserted a three in the hole that says that we are allowed to make changes to the plan of finance here in order to achieve tax compliance or maintain the ratings on the bonds under the indenture. We're still working with the rating agency and still finalizing our analysis with our tax attorneys.

We also added a new section, 1.9, that authorizes us to invest any excess proceeds from this transaction in authorized investments under the indenture.

But again, I think for the board in the end what we're looking at, we want to restructure this transaction. The goal is to make funds available to fund our second mortgages for 2010.

And with that, I'll take any questions.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MS. BINGHAM-ESCARENO: Just a point of business. So I've lost my resolution in paper. But are the changes you just mentioned already reflected in the resolution document that we received or do I need to --

MR. NELSON: They --

MS. BINGHAM-ESCARENO: -- make a motion with the changes or --

MR. NELSON: They are not in the resolution --

MS. BINGHAM-ESCARENO: Okay.

MR. NELSON: -- the resolution you received. So your motion should incorporate these changes assuming that the board is in agreement with those.

MS. BINGHAM-ESCARENO: Mr. Chair, I'm prepared

to make that motion --

MR. CONINE: Ms. Bingham?

MS. BINGHAM-ESCARENO: -- to approve the resolution number 10-022 with the addition of the changes recommended by staff.

MR. CONINE: Okay. Motion on the floor. Is there a second?

MS. RAY: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. NELSON: Thank you.

MR. CONINE: Thank you, Tim.

MR. GERBER: Thank you, Tim.

MR. CONINE: Appreciate it.

MR. GERBER: Mr. Chairman, Item 4 is a HOME item. I'll ask Jeannie Arellano, our HOME Director, to come forward and walk us through those four starting with

the HOME balance report, Item 4(a).

MS. ARELLANO: Good morning --

MS. BINGHAM-ESCARENO: Good morning.

VOICE: -- Chairman Conine, board members.

Jeannie --

MR. CONINE: Morning, Jeannie.

MS. ARELLANO: Arellano, Director of the HOME program. Item 4(a) is the HOME Fund Balance Report. It's prepared monthly by staff and has been successfully used to actively manage the Department's HOME funds and ensure that our HUD funding levels and deadlines are met. The report provides a grand total of funds available for programming after the mandated set-asides, board-approved but not yet committed awards and fund set-aside and active NOFAs have been considered.

The current report reflects \$2.8 million available for programming. And additionally, since the time of the preparation of this report, which is dated March 14, we have deobligated roughly \$3.7 million in funds which will increase the funds available for programming.

After analysis of the subscription rate of various active NOFAs staff is making recommendations for the programming of this balance and a portion of the

deobligated funds in separate action items today.

While the Department's annual 2010 allocation is only slightly less from last year, the Department has not received the funding approval and grant agreement yet.

And therefore, those funds are not reflected on this fund balance report. They'll be coming before you in the coming months to program to new NOFAs.

A brief status on the activities listed on the Fund Balance Report is also provided. It also references items for which board approval has been requested today. The noteworthy items include making available for programming 4 million from the Contract for Deed Program.

We received no applications for the Contract for Deed NOFA. And two-and-a-half million in unsubscribed funding from the Single-Family NOFA that expired at the end of April. These items are highlighted on the report.

There's also a total -- I'm sorry. There's a total of 13 million that is available for programming. And staff is recommending the reprogramming of 12 million of that today.

MR. GERBER: Jeannie, how much is remaining for disaster recovery?

MS. ARELLANO: We automatically --

MR. GERBER: Is that the two --

MS. ARELLANO: It's -- we automatically take 5 percent of the allocation. It's under that third section, Non-CHDO.

MR. GERBER: Uh-huh.

MS. ARELLANO: It's the third line --

MR. GERBER: Two million --

MS. ARELLANO: Two million --

MR. GERBER: -- 150,000?

MS. ARELLANO: -- 150,000.

MS. BINGHAM-ESCARENO: Oh, okay.

MR. GERBER: That's important to note because we have historically used these funds when there are communities that have a disaster but it doesn't yet qualify necessarily for federal assistance put together declares that there's a disaster, a tornado, other event, flooding, we're able to use these funds when other resources aren't present. And we've historically given grants in the amount of up to three, four, \$500,000 to assist. And our funds kick in 90 days after. So as I said, we have that reserve and hopefully, we'll have a less active hurricane season.

MS. ARELLANO: And with the recommendations that we're making there will be an additional million dollars left over on the bottom line.

MR. CONINE: Jeannie, what's going on with the contract for deed? How come we're getting on there? That's interesting.

MS. ARELLANO: There's -- historically, there's been limited capacity for organizations that work in that program. And through the last two years we've made some significant improvements in the amount of funding that's available, increasing what's available for the acquisition and then what's available for the actual rehab or reconstruction of the unit. I think that there are just less contract for deeds that are being issued or time has passed that they converted them.

I've heard just through, you know, people out in the community that a lot of the developers that hold these contract for deeds are trying to find out ways to refinance them themselves and continue to hold the contract for deed. But that's pretty -- just anecdotal comments I've received.

MR. CONINE: Is there some kind of, you know, study, research, more input we need to take on that particular program? I just -- again, I'm surprised that the demand we've had over the years that it would fall off all of a sudden like that.

MR. GERBER: Homero, do you want to get in on

the discussion?

MR. CABELLO: Yes.

Homero Cabello with the Office of Colonial Initiatives. Pete, the issue with the contract for deeds is that we're not finding as many out there anymore because of various laws that have been passed. There's strict penalties if the annual disclosures are not provided or the deed is not provided.

Jeannie's correct. There's some developers -- I know that when we were managing a portion of it we were having a hard time getting payoffs. Because the developers were telling me that they could not reinvest that money in today's market and get the same type of return. So they were doing their own conversions.

There are pockets out there where there are contract for deed. But some of these pockets don't have water. These colonias don't have water so we can't bring in our housing programs until there's potable water so they can meet the housing standards. So -- and then there's the issue of capacity of non-profit organizations to manage these federal programs. So we're just not finding them as much as we have in the past.

MR. CONINE: I got to believe there's some members of the Legislature that would be interested in

this particular recent development, as I would call it, to take a look at something that I think, you know, needs to happen and has been happening in the past but for some reason now is not. And whether it's capacity building or whether it's, you know, a little encouragement by the state in the form of new statutory requirements, something, you know, we ought to participate in and take a look at.

And, you know, you guys might want to have a round table or a study group to come in and let's talk about this a little more of what we can do to help encourage that particular program.

MR. GANN: Mr. Chairman?

MR. CONINE: Yes, sir.

MR. GANN: There's Pete Williams talking about it -- some laws that have been passed recent years that almost make it obsolete to go contract for deed. It's just too much trouble and it's too much liability in the one doing the contract for deed on the other end. And second of all, there's a new law coming in effective the 31st of this month and it's going to be -- make it where mortgages are really hard to owner finance of any sort. We're just not going to be able to do it. Lot of changes are coming down in that area.

MR. CABELLO: Yes. One of the -- I mean, one of the recommendations is a refinance program. Because the developers are refinance -- they're giving them -- they're now giving them title to the property but they're also getting a deed in lieu of foreclosure executed at the same time. So if they don't pay they go and file that deed in lieu of foreclosure and it's almost the same thing. But they have title to the property. And that's what we're finding more of.

MS. ARELLANO: I'd also like to add one more comment. When we were administering -- actively administering a couple of contracts that were moving forward successfully on contract for deeds we did find a lot of properties had some significant liens against them and title couldn't transfer because the liens were child support liens or federal income tax liens that were much more than what the balance was to pay off the contract for deed.

We've also experienced throughout the state and just not necessarily in the colonias but in other areas, where homebuyers have executed a contract for deed with someone that's just, you know, financed it -- done some mortgage financing on it. And we do find situations where those types of households are also in need to have a

contract for deed converted to a real mortgage and get rehab or reconstruct assistance with it.

MR. CONINE: You guys put a round table together and have not only the interested side from the consumer side, which I think that's the side I'm most interested in, but have the other side at the table, too. And let's just see if we can figure something out.

Any other questions of the staff at this point?

(No response.)

MR. CONINE: Is this an action item or not.

MS. BINGHAM-ESCARENO: No.

MR. GERBER: This was just for your information. On to Item 4(b).

MS. ARELLANO: Which is an action item. So one of the NOFAs that we're recommending reprogramming funds to is the current 2010 Rental Housing notice of funding availability. We, of course, analyzed the subscription rate to all the NOFAs. This particular NOFA has roughly a -- is roughly over-subscribed by \$30 million in regular rental applications and another \$7 million for the CHDO set-aside for multifamily development in conjunction with the 2010 competitive 9 percent housing tax credit cycle.

We're recommending ten-and-a-half million of the available 12 million on the fund balance report be

reprogrammed to the -- to this NOFA, eight-and-a-half million to the general set-aside and 2 million to the CHDO set-aside. That will still leave a balance of a million dollars should we have a natural disaster that exceeds the 2.1 million that we already have set aside for it.

And we've presented the NOFA with the black line for the dollar amounts. We've made some technical updates from that person in the NOFA and those kind of things.

MR. GERBER: So the board's asking for approval of this NOFA and publication in the Register with the ability to make some small, technical corrections as needed before it's published.

MR. CONINE: Okay. Do I hear a motion?

MS. BINGHAM-ESCARENO: No public comment?

MR. CONINE: No.

MS. BINGHAM-ESCARENO: Move to approve staff's recommendation.

MR. CONINE: Move to approve by Ms. Bingham. Is there a second?

MS. RAY: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. ARELLANO: Item 4(c) is presentation, discussion and possible approval of the 2010 community Housing Development Organization Single Family Development NOFA. This is a NOFA that expired for a single family development that expired in January. We have round tables in preparation for the draft rules to be recommended to be presented to the board.

One of the round tables focused just on single family development and CHDOs. So we experienced an increased interest in this type of funding for single family development. And we're recommending the approval of the publication of this NOFA. It will be open until December of this year.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: I move staff's recommendation.

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

DR. 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: Motion carries.

What are you doing up here?

(Laughter)

MR. GERBER: Mr. Gouris is going to present the OCC rules.

MR. CONINE: We'd rather have Jean.

Go ahead.

MR. GOURIS: All right. Tom Gouris, Deputy Executive Director for Housing Programs. And I'm here to help start the discussion on ORD, which is a discussion about the Owner-Occupied Housing Assistance rules. And we don't -- we haven't presented rules to you. What we've

presented is some material to help us bring back rules to you next time. And what we've had is several round tables to discuss this with interested folks.

We brought this to your attention last month with some information. You all had asked for some additional information, as did the group. And so we brought some additional information today to share with you.

A major area of discussion has been the loan-risk grant issue. HOME funds used for the program are provided to the Department as a grant. But -- and prior to 2006 the Department provided them to the subrecipients of the grant, as well. This policy was changed in 2006 in order to attempt to recapture and reuse any funds that may assist households who chose to sell their property after completion and not keep an affordability period on the property.

So the Department decided to change its policy and create a loan policy that was forgiven after a certain period of time, depending on how much -- depending on the level of income of the household.

On page 3 and 4 of the handout there you'll see a comparison of the other programs that the Department operates to show what other programs that are similar to

this provide loans versus grants. And that was in your material last time.

The switch to loans raised several issues. First among those was a concern -- was the concern that the HUD mandate to insure the assisted -- that assisted households had good and marketable title to the property and may have not been as thoroughly confirmed under the former grant-based award system.

The loan system requires a title closing and so a title policy was part of the process. And as we got that additional level of detail we recognized that there are a lot of title problems with these properties that may have gone unawares as a grant program -- or less awares.

The -- to date -- one of the questions last time was how much have we recovered or recaptured. To date the loan recapture program hasn't recovered any funds which would -- is not unexpected. It's not clear that enough time has passed since the program has been put in place. And again, most of those were -- most of the awards that were made were for the lowest income levels, which required the shortest amount of affordability period. So we weren't expecting to capture -- recapture a lot.

But we had -- we believe that under the grant

program someplace between -- depending on the area -- 3 to 10 percent could have fallen into a potential recapture situation. Again, hard to tell with the data because we weren't tracking the income levels on who sold their property after the grant was awarded.

In addition to the infrastructure loan system, the Department has been attempting to establish performance benchmarks that have been according to some in the industry added -- they -- those added to the complexity of the program. And they resulted in a decrease in the use of funds available -- funds that have been made available for the activity.

You can see from the charts toward the back there -- right up -- these charts that start with this one right here -- which is 1 of 9 and 2 of 9 -- that there was a significant decline in the expenditure rates for the program after the 2002-2003 double funding cycle. And since that time 30 to 40 percent of all the funds that were awarded to the OCC activity have been deobligated. That predates the loan versus grant issue. And that's the reason why we're showing this information. Because it's more than just the loan versus grants issue. I think that it's taken its toll on us.

Real quickly, the rest of these chart -- the

second of these -- an additional chart shows the OCC performance contract. It shows the 2002-2003 year, which was a double funding cycle. It shows that in 2004 and 2005 and 2006 that the awards that were made have been -- are greater than the amounts that ended up being committed. And the amounts ended up being committed have been expended. So that's good. We haven't had deals fall out as much from once they got committed to an actual household.

So let me explain that a little bit better. An award is made to a subrecipient and then they go out and find households that need to meet the requirements. Once they figure out that this household will qualify as eligible, has title, has all the things that they need primarily they'll set them up in the system. And once they're set up they're committed. Most of those transactions once they're committed close. Although some of them are, you know, hard-fought battles to try to help get them across the finish line.

The next chart, the Funding Performance Summary shows all of the major HOME program areas. The activity from 2006 to 2008. And you can see in both OCC and rental, which is the far-right one, additional funds were allocated after -- above and beyond what the plan for the

year said we were going to do. So we had planned the blue line -- or the blue bar.

We had funds deobligated or returned. We needed to get those re-awarded and allocated so that they could get committed and disbursed, according to HUD's timeline. HUD requires that commitments after -- after they give us the funds the funds be committed within two years and fully expended within five. So we moved some additional funds to the OCC activity and made awards in excess of the amount of the plan but were not able to get all those committed.

And those again -- those got re-deobligated and moved over into rural, which have -- I'm sorry -- which -- rental, which has been able to get those funds committed.

We're still working through the expenditures on those because those take a little bit -- those are development transactions.

The remainder of the charts -- the next one shows how deobligation -- what the amount of deobligation have been since 2007 and what their sources are. Then there's a snapshot of what HUD sees as our performance, seeing that we're ranked 41 out of 51 PJs -- state PJs. And then the next chart is an explanation of the previous chart.

And then there are two charts that do some comparative analysis, say how do we rank amongst other states. And it shows the top ten -- this first one shows the top ten size by population -- the top ten states and sees how they are all primarily in the upper ranking or lower -- you know, they're in the forties with us, which means they don't score as well as the number one state.

And then the next chart shows the states that are the top ten states. And those are primarily smaller states or states that do -- don't do all the activities or don't, you know, do activities that target the things that HUD uses in the snapshot, which are -- it's primarily expenditures and commitments. And so that's sort of a quick on what these charts represent.

And the last -- very last one shows our year -- or our -- from the beginning of time to today where we are in how much money the HOME program has committed and expended. And it shows that we have met our -- we have our -- we have met our benchmarks over the two year and five year. But every year that becomes a more difficult challenge as we have these deals from the past that haven't come to fruition and have to be reobligated.

The questions we have have to do with how we want to deal with -- how we want to move forward with the

next set of rules for OCC. They have to do with, you know, loans -- issues with loans versus rents, issues with issuing title policies. There are a set of questions that we have to help introduce the discussion. And I know there's some folks here that probably want to speak to the issue, as well. So I can take questions or we can do things different.

MR. CONINE: Why is it that more populous states tend to be in the bottom half of the ranking? Just in general from your observations.

MR. GOURIS: Well, I think it has to do with a couple of things. I think one is, you know, it's more money and it's a cumulative performance. So the larger states have had more money for a larger -- longer period of time. So slippage that occurs in everything happens in a bigger way with the larger states. I don't know if that makes sense. But that's one of the things that I think happens.

I think another reason is the big states try to do -- because there's more money they have the thought process that they can do all the things that the HOME program -- all the activities that the HOME program offers. Some smaller states may only choose one or two program activities because they have such a small amount

of money. Divvying that up becomes more difficult. So they focus on one or two activities and that allows them to be more effective in those activities. I think those are two reasons.

MR. CONINE: Any other questions of staff? We have a couple witness affirmation forms here, too.

MR. GERBER: I will say as we jiggled with the program we were down at the low 40 -- the high 40s at one point. We went up to --

VOICE: Forty-one.

MR. GERBER: -- 30-something at one point and now we're at 41. It does take time --

MR. GOURIS: Yes. It does --

MR. GERBER: -- for those adjustments to cycle through.

MR. GOURIS: It does move from time to time as we improve, you know. If we were able to get all that we have out there expended today we would -- our ranking would improve somewhat. But it -- because the way the rankings work from the beginning of time it will be really difficult. It appears to us to be really difficult to ever -- you know, to -- in the short term get down into the top ten. I think we can get down, you know, we can move with -- you know, within a range of ten. But moving

to the top ten would be very difficult from what I can tell.

MR. CONINE: Okay.

Call on Robin Sisco.

MS. SISCO: Good morning.

MR. CONINE: Morning.

MS. SISCO: I'm Robin Sisco. I'm with Langford Community Management Services. And I'm also a member of TDHCA's Rural Housing Work Group. I participated in the HOME OCC discussions during meetings of the work group and during the HOME rules round tables at TDHCA. Many of the HOME OCC questions presented to you by staff today were discussed at length in those forums.

I and many of my colleagues put in a good deal of time and effort to assist in the rule-making process and we've been happy to do so. We also greatly appreciate the time and effort that HOME staff has put into these discussions and we are glad to see that many of our comments are presented to you in the written materials you have today.

However, there are a few things we disagree with that staff states they favor in the materials you've been given. In brief, the overwhelming consensus of the participants was that the HOME OCC program should go back

to a grant program. HOME OCC worked well for many years as a grant program and it conformed to TDHCA and HUD requirements.

The time and effort involved in the loan program since the rules were changed in 2006 has not been cost effective for the homeowners, the contract administrators or the agency. And I would argue it has led to some of the deobligation problems you see in the program today.

Of the options you've been presented we would disagree with staff that repayable loans should be used for those above 50 percent AMFI. We would rather favor that grants be used at 60 percent and below and that forgivable loans be used at 60 to 80 percent, which is now currently a repayable loan program. We disagree with staff's recommendation that repayable loans should be used at 50 percent and above in order to keep consistency between TDHCA housing programs.

HOME OCC is a different program. It frequently serves elderly populations on fixed incomes. In many areas of the state these people even at 50 to 60 percent AMFI do not have the funds available to repay a loan. Even a minimal loan payment will have a detrimental impact.

In addition, there was consensus among the participants that if OCC is left as a forgivable loan program then those loans should be forgiven upon death of the assisted homeowner without requalification of heirs, particularly for those below 30 percent AMFI. As stated in the comments in your board materials, these homes are often the assisted homeowner's only asset and the fact that they might burden their children with repayment upon death will be a deterrent to the very homeowners this program is meant to assist.

In addition, it is our belief that the implementation of a process to requalify heirs, sometimes years after the project is closed, will be difficult, time consuming and it's not clear who would be responsible for the income reverification.

Once again, we really do appreciate the time staff has spent on the rule-making process. We would ask the board to carefully consider the comments from the work group and the round tables as you answer the questions presented to you by staff today. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Donna Chatham?

MS. CHATHAM: Good morning, Mr. Chair --

MR. CONINE: Morning.

MS. CHATHAM: -- board members, Mike. How are you all this morning?

MR. CONINE: Good.

MS. CHATHAM: I'm coming here to represent the Association of Rural Communities in Texas. We represent over 300 rural cities and counties, economic development corporations in Texas. And just a little fact to remind you, there are 1,100 rural cities and counties in Texas of which 792 have a population of 2,190.

And just to tell you real quickly from my personal, professional background I used to administer the Community Development Block Grant cities to Wichita Falls and Mesquite. And in Wichita Falls and Mesquite I had anywhere between three to eight people to work with, which I'm very thankful for, to implement housing programs, to look at infrastructure programs for the cities. Those were entitlement cities and they were bigger.

When I came to work for the Association of Rural Communities in Texas I began to see very quickly it's the same program that comes to TDHCA but the difference is you're serving populations of 2,190. They don't have professional city planners on board. They

don't have a staff of five to eight. So I -- again, we just -- we're here again to ask you any time you pass rules and regs to please keep that in mind.

Because Mike very well knows and he's really helping us to understand more about we have lack of capacity out there. And that's what so important when you pass regs. Not only to help you at the state level to be fair, but also to build capacity while out there.

I'm not going to over what Robin just said. We'll just say Amen. We'll just say Amen to that. And that's really great. What we do want to say this morning is to thank Mike truly. Because when Senator Lucio presented Senate Bill 2288 to come up with an idea of more rural housing problem, there was a --

Pretty deep bill, wasn't it, Mike?

And we really negotiated a lot doing that. You know. And it was tough and it was hard. And I think we came down to some great stuff. The concern was it didn't pass for several different reasons. But again, your Executive Director's word is his bond to me and always has been. He sat there and told me after session or even before when it looked like it was going downhill -- he said, Donna, I promise you we're going to do what we can do to implement that.

And, Mike, your word again is your bond. You have been continually trying to do some of what you can do. And one is the Rural Advisory Committee. And that really, Mike, is making a difference. I see both sides. I see advocates. I see cities and counties. I see staff beginning to understand a little bit more on both sides.

The great thing -- what RAC does is I hope we are always the mediator between the two and I do see it happening. I think we got more places to work. There's still some more misunderstanding. But isn't that what good communication's all about?

So when you're considering these rules this morning I'd just again ask you to consider the substance of what Robin has already shared of why it's not the best thing, we don't believe. And also, it was a consensus of the Rural Advisory Committee that that -- these probably would not work. But that's our advice to you. And we are very, very thankful for everything that you're doing for rural Texas.

MR. CONINE: Thank you, Ms. Chatham.

Any questions of the witness?

(No response.)

MR. CONINE: Okay. Thank you very much.

Guess that concludes that particular item.

We'll, I'm sure, have an agenda item next month to deal specifically with those issues on the OCC program?

MR. GOURIS: We will. We would ask any comment or any input that, you know, we can get from the board as far as the big-picture issues. We'll -- you know, we can make -- go forward with our thoughts and recommendations.

But I think, you know, it --

MR. CONINE: You don't want to recommend something we're going to shoot down?

MR. GOURIS: Well --

(Laughter)

MR. GOURIS: Well, we -- you know, yes. That's what your -- but also, the one thing that we want to be able to eliminate the area that we think we're going so that we can make sure that the rules that we put -- that we propose are fully -- you know, fully thought out --

MR. CONINE: Right.

MR. GOURIS: -- for that activity so that we're not then, I guess, coming back with a rule that's put together at the board meeting.

MR. CONINE: So what we'd ask is just take these materials back home with you, study them a little bit, if you have any questions call either Tom or Jeannie in the next week or so and give them your input.

MR. GERBER: We really would welcome your thoughts, board members. And we will try to -- and I know we'll be holding additional rule work groups to try to address some of these issues to see if we can get to a place of consensus. These are tough issues and it's tough housing to do, as we all know.

DR. MUNOZ: Mike, I just have a question. Is there some way -- and particularly in these areas where the advisory group has a serious difference of opinion -- where we could see their recommendation? Because it just strikes me as we have this advisory work group and if everything that they advise us on or recommend is sort of dismissed or not included -- I mean, I'd like to see their representation of what would be a good solution. Which is not to say that that's, in fact, what will go in the rule. But how is that being represented or considered?

MR. GOURIS: I believe that we attempted to provide both sides of the issue and they also provided a document last time -- supplied a document to the board last time as to what they would like to see. I think their -- I think the reality is we're all sort of trying to hedge on what we think is going to happen and address how that rolls out.

So if we're going to maintain a loan program

because we want to be able to have some recapturability do we make it -- or if recapturability is something that's important do we make it a loan program or do we make it a -- some sort of recoverable grant? Well, those are two very different -- they're similar but they're very -- you know, the rules for them are going to have to be fairly well thought out whether it's one or the other and at what levels we want to do that.

I think the key difference is they would prefer -- they would generally prefer a grant program in the sense that that would eliminate a lot of the paper -- they believe it would eliminate a lot of the paperwork.

The issue that we've been trying to convey is that the paperwork is there probably because the loan -- a lot of it is because of the requirement to provide marketable title. And we would suggest, even if we did a grant program, that we'd still go through a title policy review process to ensure that we have a good -- we can prove up good, marketable title. That's still going to be a source of stress and frustration.

Because the reality is a lot of these properties -- these owners have owned the property, it's been in their family for many, many years, there may be siblings or other folks that are attached and all sorts of

things that need to get cleared up. And this is the heart of, I think, the problem with the whole issue of loan versus grants. It's not necessarily about whether it's a loan structure or grant structure. It's about the marketable title issue.

MR. CONINE: Is there something about repetitive federal money going into a program such as the Owner-occupied program that now with all this track record and experiences related to title and so forth that we could recommend as statute that would help, you know, in this -- or can we get a group of folks together that would say, Look, if we had this state law where we could do such-and-such we could get this federal money down to those folks quicker, easier, faster, that sort of thing?

MR. GOURIS: And that's one of the things that the work group has discussed, you know, as a side. Is there a source of funds to help clear title --

MR. CONINE: Right.

MR. GOURIS: -- you know. It's not a -- so it's not an activity that the HOME program can fund. But theoretically a trust -- a state program could fund that. A trust program --

MR. CONINE: But the source of funds would have to clear title based on existing law today. And my

question is is anybody looking at the existing law today to say we could do it a whole lot more efficiently, effectively if we had some, you know, the law tweaked as opposed to having money. I mean, we need to --

MR. GOURIS: The disaster? Yes. I mean -- Jeannie mentions that House Bill 2450 last session attempted to do that for the disaster areas --

MR. CONINE: Right.

MR. GOURIS: -- and provide a streamlined approach to get through title for CDBG disaster activities. We submitted that activity, that law to our HUD monitor folks and -- at headquarters and they said, No, that's not something you can use for the HOME program.

Even though we do fund disaster areas with the HOME program we don't -- it's a different set of federal requirements. So --

MR. CONINE: Okay.

MR. GOURIS: -- we ran that up the chain.

MR. CONINE: All right. We'll do our homework and be ready to go next month.

MR. GERBER: And I think there's a little bit of disconnect, also between HUD Washington and HUD in the region that we work with. And I think --

MR. CONINE: Really?

MR. GERBER: -- they're --

(Laughter)

MR. CONINE: That's the first I've ever heard it.

MR. GERBER: We're benefitting from that and trying to work through it. So --

MR. CONINE: Okay. Thank you very much.

MR. GERBER: Thank you both.

Thank you, Donna and Robin. We appreciate your giving input on it.

I'd also mention that it is a strong partnership with Rural Texas. Again, we're as much a rural agency as urban agency. We have a grant -- we have a Housing Trust Fund Program out there now that's targeting building in rural Texas with capacity building dollars associated with it.

We've had a sort of a love/hate relationship with capacity building programs over the years as a department because oftentimes we've used capacity building dollars and we haven't really seen additional units produced. So the condition of receiving capacity dollars this time is that you have to produce a certain number of units of housing in rural Texas and be able to support them and sustain them. So we're excited about that.

We've got a lot of input from that work group and look forward to continuing the partnership.

Mr. Chairman, I know you're going to adjourn to lunch -- recess for lunch. If I could go through two quick items.

MR. CONINE: Okay.

MR. GERBER: Item 7, the Disaster Recovery items, I'd like to get that stamped back. There's a lot of work to be done there. Item 7(a) is just an update on all of our funding. And I'd point out to the board that under Rita Round I we'll be complete with that work on September 30, 93 percent of the funds have been expended and we'll be completing -- we're in the process now of completing 13 homes and we will be done with that grant. So we are pleased to be seeing the end in sight there.

On our Rita Round II program as of today we've completed construction of nearly 1,450 homes, another 156 units under construction, we've extended nearly 60 percent of the \$222 million that's available for our various housing assistance programs.

There was a slowdown in the number of assignments that occurred due to some changes in the income documentation process working with FEMA and hazard insurance claim amounts. But we've implemented some

measures that are addressing that and have improved the productivity and efficiencies of that program.

We are still on time on the timeline through our contractor, ACS, to have that program completed in December of 20 -- of this year. Houston and Harris County activities continue to make progress. Both Harris County and Houston have Multifamily Rehabilitation projects that are underway. We expect those to wrap up early in the new year.

Under the Ike Round I funds over \$7 million in draw requests have been processed and over half of these funds are directed to our four direct program activities actually helping people as opposed to administrative expenses associated with the ramp up of programs. So we're encouraged to see the dollars starting to move and programs starting to come to life.

And as I think Mr. Patrick from Galveston and others from Galveston related earlier, there's a lot of eligibility work that goes into this and it often times takes many, many months to qualify the family. The homebuilding part of it or the rehabbing of the house is actually in many ways the easiest part.

Approximately \$65 million in CDBG Disaster Funds have been allocated. As you know, under the Rental

Housing Stock Restoration Program 14 developments were awarded funds through this program. We are currently in the process of executing contract amendments with the rental developments. But one project today -- in fact, I signed for Orange Navy is due to close this week. I've signed our documents so that closing can proceed. And construction generally starts very, very quickly thereafter. And that's an exciting project in Orange. And I saw Mr. Ikeberry here earlier. And we're delighted.

VOICE: Thank you very much.

MR. GERBER: Build fast.

We'll do a full report with ACS on our Disaster Recovery Programs at the early June meeting -- at the June meeting.

Next turn to Item 7(b), which is a report on the homes that were reviewed by me for services for municipal requirements that exceeded the established cap of \$10,000. There were 17 homes that were approved by me where that cap was exceeded. And so that report's provided to you.

Similarly, under Item 7(c), you asked for a report on costs exceeding the accessibility cap of \$15,000. There were 14 homes that have been approved by me that exceed that cap for your review.

Lastly, under item -- it's 7(d) -- which was a presentation and report on homes that were reviewed by me for costs exceeding the elevation cap of \$30,000. And two homes were approved where the cost exceeded the cap. As you know, the board in October approved -- in October of 2009 the board approved the cap high elevations not to exceed \$20,000 over the \$30,000 existing cap, making for a total of \$50,000. So approval was given to the approved limit on the home where the elevation cost exceeded the cap.

Are there any questions for this month under the Disaster Recovery?

(No response.)

MR. GERBER: And again, I feel like we owe you a more full report on our Disaster Recovery programs and we will provide that to you at the June meeting. And again, that 1,500 number in our housing programs just mentally for us is a big number. It signifies more than halfway in building what we need to build under that program. So we're excited to get to that point.

I'd like to turn to the last item that we'll consider before lunch, which is Item 8, the Neighborhood Stabilization Program. Under the Neighborhood Stabilization Program on 8(a) is a discussion just of the

status of the program.

On March 12 of 2009 the board approved the first Neighborhood Stabilization Program NOFA. And that NOFA included a plan to distribute \$101 million granted to the state through an allocation formula to counties that were calculated to have the highest need. Counties were divided into direct and select [indiscernible] case on the now demonstrated need with TDHCA managing the direct pool subrecipient contracts and the Texas Department of Rural Affairs working with select subrecipients.

When the NSP application period ended on April 27, 2009 applications totaling \$163 million had been received. And on June -- on July 16 of this year the board awarded \$96.8 million in available funds to 49 subrecipients across 61 contracts. The report that's presented today just provides the status on the NSP program to date. And I commend that to you.

Item 8(b) is a presentation, discussion and the possible approval of the 2010 Neighborhood Stabilization Program reallocation award recommendations. As you know, NSP is a HUD funded program authorized by the Housing and Economic Recovery Act of 2008 and as a supplemental allocation to the Community Development Block Grant Program through an amendment to the existing State of

Texas 2008 CDBG Action Plan.

NSP is designed to help cities, counties and eligible non-profit organizations acquire or redevelop foreclosed properties that would otherwise become sources of abandonment or blight. In July of 2009 the Governing Board made the 61 NSP contract awards. To date 4.3 million has been recaptured from the original awards. And this funding is the base amount to be reallocated under the NSP-R NOFA.

In addition to the funding that's already been returned additional funds are expected to be recaptured by the state in the future. We'll continue to make these funds available for use in local communities through an open application process and as funds are returned TDHCA will announce their availability through email and web site announcements.

Ten applications that are totaling \$17.8 million were received in the initial round, which closed on April 21. Three of the applications are recommended today totaling \$3.3 million in funds. The applications recommended for award are those with the highest scores whose aggregate funds requested do not exceed the funds that were currently available for distribution. Two of the applications recommended are for award of current NSP

recipients that have met their contractual requirements.

So we would ask the board to approve a motion awarding those NSP funds to Grand Central Texas Development Corporation in Llano, the City of Garland in Dallas and Affordable Homes of South Texas in Hidalgo.

MR. CONINE: Do I hear a motion?

MS. BINGHAM-ESCARENO: So moved.

MR. CONINE: Motion by --

MS. RAY: Second.

MR. CONINE: -- Ms. Bingham, second by Ms. Ray. Any further discussion or questions?

(No response.)

MR. CONINE: Now, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, Item 8(c) is a presentation, discussion and possible approval of requests for amendment to the Neighborhood Stabilization Program contracts. The amendment requests are within -- are listed in your board book. The City -- there are a number of communities that are making a variety of requests, all

of which are supported by the Department. We would ask the -- we would ask for the board's approval of these amendments in block.

MR. CONINE: I have one witness affirmation form.

Shameka Union?

MR. GERBER: We've been advised by the City of Galveston, Shameka, that you do not wish to testify. Is that correct?

MS. UNION: That's correct.

MR. CONINE: Okay.

MR. GERBER: Thanks for being here. We appreciate it.

MR. CONINE: All right.

MR. GERBER: We would ask --

MR. CONINE: We're ready for a motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: Move staff's recommendation.

MR. KEIG: Second.

MR. CONINE: Move staff recommendation on this particular item with a second by Mr. Keig. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

All right. With that, we will take a break for lunch about an hour and return shortly in executive session.

MR. GERBER: Mr. Chairman, on this day, May 12, 2010 the regular meeting of the Governing Board of TDHCA held in Austin, Texas, the board is ready to go to closed executive session as evidenced by the following: an opening announcement by the presiding officer as designee the board will begin its executive session today, May 12, 2010, at 12:15 p.m. The subject matter of this executive session will be the issues as follows.

(Simultaneous discussion.)

MR. GERBER: -- duties discipline or dismissal of a public officer or public -- or employee who specifically [indiscernible] evaluation and possible adjustments of compensation of the Executive Director be pursuant to Texas Government Code 551 to seek the advice of his attorney pending -- contemplating relocation or a

settlement including one, ICP v. TDHCA filed in Federal District Court, two -- Case Number 06-10-0410-8 Fair Housing Act Amended Complaint Texas v. --

C, pursuant to Texas Government Code 554 to seek the advice of his attorney [indiscernible] the State Bar of Texas clearly conflicts with this Texas Government or indeed, pursuant to Texas Government Code 551, to deliberate the possible purpose of the State to release real estate because it would have been truly detrimental and the possibility of issue with third --

(Whereupon, a lunch recess was taken.)

MR. CONINE: Okay. Back in session.

You going to read the --

MR. GERBER: Yes, sir. Mr. Chairman, the board has completed its executive session of the TDHCA board on May 12, 2010 at 1:30 p.m.

MR. CONINE: During the executive session the board had a chance to do Mr. Gerber's evaluation. And I know I got several responses from staff that they would like to participate in that process.

(Laughter)

MR. CONINE: And we didn't allow them to do that. And felt like we had a good interchange with Mike and look forward to his continued leadership of the

Department as we move forward.

And think you've done a great job as we've moved along through obviously, difficult and trying times, both economically in the United States, as well as having a lot of new programs put upon the Department in the form of disaster relief, TCAP Exchange and everything that we'll be talking about here shortly.

So congratulations to Mike for a job well done.

(Applause)

MR. CONINE: Ms. Ray, you have something you'd like to say?

MS. RAY: Yes, Mr. Chairman. In executive session the board of directors did the annual evaluation for our Executive Director, Mr. Mike Gerber, and the board has recommended an 8 percent salary recommendation -- increase recommendation for Mike Gerber in his position of -- as Executive Director. I therefore, move that the board approve the 8 percent salary increase.

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

MS. BINGHAM-ESCARENO: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. And we hope we can get that approved over at the Governor's Office and compensate Mike for a job well done.

Okay. Back to Agenda Item Number 5, I bet.

MR. GERBER: All right. Yes, sir. Item 5(a) is a presentation, discussion and possible approval of conditional awards for Round III of the Tax Credit Assistance Program.

Tom?

MR. GOURIS: Good afternoon. We're recommending that Round III be approved. We had 11 applicants, eight of which are technically in the money. The other three will be on our waiting list should one of the eight that are being recommended not be able to move forward. I can go into more detail if you'd like. But that's --

MR. GERBER: The list is provided to you and we'd ask for your approval.

MR. CONINE: I have witness affirmation forms.

Barry Kahn?

MR. KAHN: I'll respond if there's any questions.

MR. CONINE: Okay. Thank you.

Ray Lucas?

MR. PIETTE: Mr. Lucas had to leave but I'm here to speak on his behalf --

MR. CONINE: Okay. Gilbert?

MR. PIETTE: Yes. Gil Piette.

MR. CONINE: Piette? Okay.

MR. PIETTE: Thank you, Mr. Chairman.

MR. CONINE: Uh-huh.

MR. PIETTE: My name's Gil Piette with Housing and Community Services out of San Antonio. I'm here to speak on behalf of Montabella Pointe, which is Project Number 10701. Before I do that, though, I'd like to say a thank you to the board and the staff. We just yesterday had our groundbreaking ceremony on Oak -- Manor Oak Village, which is a 224-unit property in San Antonio. And we closed some time ago. The rehab is already under way.

At the closing we were told it was the first Exchange that was every completed using HUD funds in Texas and that it was the second in the nation. So we were quite happy about that. And it was also -- that project

also had the largest commitment of rehab funds ever from the City of San Antonio. So thank you for helping make that possible.

Regarding Montabella Pointe, I'm here pinch-hitting here for Mr. Lucas and so I need to up front just say that I have a somewhat tenuous grasp on this. But Mr. Lucas brought to my attention that there are some concerns on -- while we're very much for this, we were kind of latecomer to this.

The not-for-profits in San Antonio do meet monthly and there were other not-for-profits that had projects that we thought were more needful and more meritorious. And so we hung back. And when those projects failed then we were at the point where we certainly the TCAP funds and we applied. So we're kind of admittedly a little late to the process.

But because of that we're -- just want to express concern that we -- you know, we didn't see in the rules, you know, when notice of funding would come out. And so since construction has not started on our project early -- you know, expeditious notice would be important.

And then secondly, it's my understanding that the funding is disbursed as construction is completed and that's in increments of 25, 50 and 75 percent and that you

have to have 75 percent completion by January of 2011. So that really -- for projects like us that are not started that puts us in a bit of a bind. My understanding is that the federal deadline is February rather than January. And I understand how TDHCA may need some time to process the paperwork and whatnot and that may well be the reason for wanting to have the deadline by January.

But if -- I'm simply here to request that if -- you know, rather than no good deed going unpunished, if there's any way to work with projects that are in the same situation as us that we can get that little bit of extra time to get to 75 percent completion that would super. Thank you.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

Tom, do we have any others in that situation that you're aware of?

MR. GOURIS: I believe there may be several 2009 transactions that either haven't -- didn't receive TCAP until recently or have received TCAP with the expectation of closing on their credit transaction and now their credit transaction is looking like it may not close.

An so they're kind of scrambling to try to get some things done.

There's going to be -- we really need to address that in some way. We do have a 75 percent disbursement requirement by February 15 -- mid-February. And so we will need to figure out how we can expedite that to occur. We're going to come back probably next month with a proposal to change the policy which is currently four discreet draw periods based on percentage of completion and we're going to be talking to folks about what other options we can have for just this sub-set of folks --

MR. CONINE: Okay.

MR. GOURIS: -- to get us to the 75 percent test.

MR. CONINE: Okay.

MR. GOURIS: Expect to see something.

MR. GERBER: So it's fair to say we do need a little bit of time.

MR. GOURIS: Well, we --

MR. GERBER: And we --

MR. GOURIS: You know, I mean, there's some things to think about. We definitely need a little bit of time. These are transactions that presumably have all of

their other things signed up and are ready to move and ready to move forward.

We've heard from some lenders and syndicator that they're hesitant because now we're putting this extra burden on them. And I think we can address that one thing so that we can both meet their need to get close and our need to see the 75 percent gets spent.

MR. CONINE: Any other questions of staff?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MS. BINGHAM-ESCARENO: I'll move to approve the approval of the Round III applications as recommended by staff.

MR. CONINE: Motion by Ms. Bingham. Do I hear 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: Motion carries.

Item 6(a), Mike.

MR. GERBER: Mr. Chair, I'd like to take Item 6, the Rules in block if I can.

MR. CONINE: Yes.

MR. GERBER: Item 6(a) is the Housing Trust Fund rule. Department conducted a public hearing to accept public comment on the proposed changes to the Trust Fund rule as published on February 12 this year in the Texas Register. Additionally, written comments on the new rule were accepted on March 15. The rule ensures compliance with all statutory requirements. It incorporates public input and includes recommendations for revisions of necessary policy and administrative changes to further enhance operations.

The responses to public comment are summarized in your board book and include administrative clarifications, some changes and corrections that are made to the -- as well as some changes and corrections that were made to the rule by staff. And response is represented in the order in which these appear in 10 TAC Chapter 51.

Staff's recommending the board approve the adoption of the final order repealing 10 TAC Chapter 51 as

a Trust Fund rule and adopting the proposed new section, 10 TAC Chapter 51 Housing Trust Fund rule as ordered and be approved together with the preamble that's presented at this meeting for publishing in the Texas Register. And we would ask just prior to that publishing that we also have the flexibility to make any minor technical corrections that may be necessary just to perfect it.

Why don't we take -- rather than taking the rules in block, if I could go ahead and ask for a motion on the Trust Fund rule, Mr. Chairman, on that?

MR. CONINE: Okay. Do I hear a motion?

DR. MUNOZ: So moved.

MR. CONINE: Motion by Dr. Munoz.

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Anything further?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, Item 6(b) are the

rules concerning Disaster Recovery. The Department adopts new rules for Disaster Recovery concerning the definitions, general provisions of forms to be utilized in the program. Two different sections were published for public comment in the Texas Register on February 5 and on March 26 respectively.

Public hearing was also held in Austin and written comments were accepted through April 26. The Department's reasoned response to public comment is included in the board book and were applicable; those edits have been incorporated in the final version of the rules. We very much appreciated the comments that we received from many who were in the impacted areas.

With that said, I don't believe there's public comment and staff would ask for the board's approval of adopting -- issuing the final order of adopting 10 TAC Chapter 54 Sections 54.1 through 54.3 concerning Disaster Recovery and the ability to make small technical corrections if needed prior to publication.

MR. CONINE: Hear a motion?

MS. BINGHAM-ESCARENO: So moved.

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

MS. RAY: Second.

MR. CONINE: By Ms. Ray. Any further

discussion?

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Mr. Chairman, the -- we're going to jump down to Item 9.

MR. CONINE: Let's jump.

MR. GERBER: Item 9(a) are the Housing Tax Credit amendments.

Robbye, you want to come forward and walk through each of those?

Robbye Meyer is our Director of Multifamily.

MS. MEYER: Good afternoon. The first amendment we have to Taylor Farms, 09760. The owner's requesting a increase to their development site by .5 acres. We extended an increase by staff. It was administrative amendment in January. They bring you back to the increase in site just a little bit larger.

The staff has reviewed this amendment. The total development site amount is 5.5 acres. It has been under the control of the development owner the whole time

of -- within the application process. It did include -- it was -- the total site was included in the environmental assessment and it does not affect the threshold, scoring or the recommendation of the application. The owner's requesting the change in his site to match the City of Dallas' approval of the site. Staff is recommending approval.

MR. CONINE: I have one witness affirmation form.

John Shackelford?

MR. SHACKLEFORD: Only to answer questions.

MR. CONINE: Okay. Thank you.

Any questions of the witness? Anybody else?

(No response.)

MR. CONINE: I'll entertain a motion for --

MS. RAY: Mr. Chairman?

MR. CONINE: Yes?

MS. RAY: I move staff's recommendation.

MR. CONINE: Move staff recommendation to approve. Is there a second?

DR. 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: Motion carries.

MS. MEYER: The Belmont Senior Village is the second one, 09793. The owner's requesting a change in the income targeting. The number of 30 percent units will increase from 17 to 26. The number of 50 percent AMGI units will decrease from 151 to 76. And the number of 60 percent AMGI units will increase from zero to 66. The market rate units will remain the same at 24.

The proposed change does not change the unit mix or the net rentable area. The score of the application as amended will remain the same as the original score. And the staff is recommending the change.

MR. CONINE: No public comment on this one. Do I hear a motion to approve?

MS. BINGHAM-ESCARENO: So moved.

MS. RAY: Second.

MR. CONINE: Second by -- or motion by Ms. Bingham, second by Ms. Ray. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: The third amendment that we have is Brazos Landing, 01029. This application is requesting the removal to -- the approval to eliminate the requirement to have a historically under-utilized business in the controlling general partner of the development. They are requesting this to comply with the terms of their lender.

The lender's requesting the owner minimize the participation of Jennifer Magill as a principle of the organization that controls the general partner. She is a person that is a participating general partner that fulfills a HUD requirement. Staff is not recommending this amendment.

MR. CONINE: I do have a witness affirmation form.

Burt Magill?

MR. MAGILL: Thank you, Mr. Chairman, board, Mr. Gerber. I want to hand these out, too. It probably would be best to give you a little background on this

request.

Magill Development Company was formed in 1998.

It is -- the principles are my wife and I. We have used that -- well, effectively in about 2000. We did file for HUD certification. We have achieved that. With that application at the Lake Shore Partners. We have continued to renew that application as it expires about every three to five years.

That was fine. Magill Development Company is used as our kind of our holding company to hold all of the single-asset entity general partners of all of the developments that we do. And we have used that since that date for all of the single-asset entities as the parent company.

That was running fine and I made a promise to my wife some years ago that she would not have to sign on any more personal guarantees. And so that we have been working along with that understanding for a number of years until 08124, now which is a forward commitment, which is running under 09007, which is N.W. Mill Stone Partners. That was a forward commitment and there's certain time constraints on that particular deal.

And so as we got down the road the syndicator, Hudson Housing and their investor, Capital One, thought

that they wanted to have Magill Development company -- either Jennifer sign it as a guarantor, which I promised that we wouldn't do again and -- or to release her majority interest.

So they produced a document which is, I call, a post-nuptial agreement. And -- which was kind of stressful at the time. So anyway -- but part of the deal for that to go away is effectively that we reduce Jennifer's holdings below -- to a minor percentage.

I will remind you that we are still married. It is a community property state. The guarantees on Lakeshore Partners is going to be -- the guarantees on Lakeshore Partners have expired. There are no financial guaranties by the general partner any longer. The --

If you may recall, Mr. Chairman, the priority of the HUB in 2001 was to sign the construction loan, to sign the guarantees for the general partnership. All of those financial obligations have expired. So to go back to the Capital One/Hudson requirement, they requested that we make this request to the board. And I made it.

Of all of the -- on all the properties that Magill Development Company has an interest in for the single-asset entities in all of our developments. The response back was everything was fine. There -- since

there was no other HUB interest that that could be approved on all the other properties with the exception of Lakeshore Partners. Since we received a 3 point award for that one, that is why it's being denied.

So -- and that it just is -- continues to be popping up as a hardship on our way to do business I'd ask that the board take a look at that and approve it because really, the management and the oversight on Brazos Landing is going to remain the same. Magill Development Company will still be the owner of LSP Development, which is the single-asset entity. It isn't -- as -- the property is located in Waco, Texas, my wife's hometown. So she goes and visits this on a regular basis.

So this is just kind of an accommodation to Capital One and Magill Development Company to try and -- so we can continue on with our standard organizational chart but not have to do any maneuvering for Magill Development Company since it is kind of our holding company for all of our different partnerships.

That was a quick analysis of it. If you have any questions I'll be glad to visit with you about it.

MR. CONINE: Any questions of the witness?

MS. RAY: My question is for staff.

MR. CONINE: Uh-huh. Okay.

MS. RAY: Robbye?

MR. CONINE: Robbye?

MS. RAY: Can you give me some background as to why you would deny the request? Did they get it for points for being a HUB?

MS. MEYER: They received points in 2001.

MS. RAY: And when you remove this person as a HUB then that gives the company an unfair advantage. They received points --

MS. MEYER: They --

MS. RAY: -- and knocked somebody else out of the way because they were a HUB.

MS. MEYER: Well, they received points. It wouldn't have affected the score at that point, at -- in --

MS. RAY: It would not?

MS. MEYER: It would not have. But they did receive points back in 2001.

DR. MUNOZ: How would receiving points not improve their situation?

MS. MEYER: Well, they received points for it. I mean, they -- it did give them points back then. It would not have affected the selection of the application back then. But it did give them points at the time.

DR. MUNOZ: If --

MR. GERBER: So whether they had the points or not, they would have --

DR. MUNOZ: They still would have been selected for --

MS. MEYER: They --

MR. GERBER: Right.

MS. MEYER: -- still would have been selected at the time. However --

DR. MUNOZ: It helped them.

MR. GERBER: Sure. It helped them.

MS. MEYER: It advantaged them. But --

MR. GERBER: It didn't give them points. It didn't put them across the finish line but it certainly helped.

MS. RAY: But from what I understand of what you just communicated to me, they did get points but it did not make a difference in their selection --

MS. MEYER: Correct.

MS. RAY: -- if they had the points or not.

MS. MEYER: Correct.

MS. RAY: So why would that be a consideration now, I guess is my question I'm asking you. If it didn't make a difference whether they had the points or not, they

got the points, it would not have made a difference. Why does it make a difference now? Help me to understand the process so I can make a decision in my mind.

MR. GERBER: Well, I think it -- maybe Tim can interject here for just a moment [indiscernible] more at the macro level about why -- I mean, the Department has historically in a very strong HUB program. And that's been recognized. And certainly acknowledged by the Legislature. We just saw two. This was a way -- this was one application that got points through that program. Whether it -- and we certainly -- we were grateful to be in partnership. And no small -- you know, and one of those reasons was because of that HUB designation. It matters to us.

MR. IRVINE: Right. If I might? Tim Irvine, General Counsel, Mr. Chair and board members. This really is not about points. It's not about operations. It's a matter about a policy commitment. Somebody is encouraged by the scoring system to come in and seek the points for participation of a HUB, we move forward. And the reason we're doing it is because it's good public policy.

We want participation of HUBs. And we know that it's harder. But I think I speak for staff that just because it's harder doesn't mean you shouldn't keep trying

and that you shouldn't do it. And that's really kind of where we stand on this.

MR. GANN: I have a question. What -- give me the time frame of when this started?

MS. MEYER: This application was in 2001.

MR. GANN: 2001. So the bank has been paid off. Is that correct?

MR. MAGILL: Actually, the construction loan has been paid off. The general partner's guarantees under the partnership agreement have expired. We have met all those obligations. We are currently in a non-recourse loan, which is -- just show -- looks to the property for true payment. The property is doing well. It's 98 percent occupied. There's no concerns.

I'll remind you this kind of generated from a more current deal. And so this is the only one that just popped up on the radar as -- that would not be overwhelmingly approved.

MS. MEYER: It's still under the Tax Credit LURA with the HUB in the Tax Credit LURA.

MR. MAGILL: And may I say, the LURA says that the HUB will be maintained through the compliance period unless I receive permission from the Department to otherwise disengage it. And so that's what I'm doing here

at the request of Capital One and Hudson House.

MR. GERBER: Mr. Magill, is Capital One recommending it or are you --

MR. MAGILL: Yes. I've sent a letter -- the letter should have gone around.

MR. GERBER: But did you ask Capital One for --

MR. MAGILL: Oh, no, sir. No, sir. I will promise you I did not ask them for this. This was a -- as I said, the post-nuptial agreement that we have was not an easy one to have Jennifer sign. So, no, sir. And I would like -- and what this does -- if this request is approved, it will take that post-nuptial agreement and void it. And so that's effectively -- it's pretty onerous. And I didn't have a whole lot of time to go find a new group.

MR. CONINE: Dr. Munoz?

DR. MUNOZ: Well, I'm prepared to make a motion. And I'm sympathetic to the changing circumstances of the project well after the origination of it. But I believe that it's sound public policy and whether circumstances change after the fact I don't -- I'm not persuaded that this is an instance where these HUB expectations should be eroded. So I'll move staff's recommendation.

MR. CONINE: Motion to move staff recommendation. Do I hear a second?

MR. KEIG: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carried.

VOICE: Business continues as normal. Thank you.

MS. MEYER: The rest of the amendments were pulled after the agenda was posted.

MR. CONINE: Okay.

MS. MEYER: We have no -- 90.

MR. GERBER: Do we have a list, Robbye, of alterative HUBs that we could -- or --

MS. MEYER: So we can replace something other than HUB?

MR. GERBER: For replacement. I mean, we have a lot of folks who struggled with this. And certainly,

we've had some staff discussions and I think it's going to come up again. How are we on the staff level?

MS. MEYER: The board has allowed some HUBs to be replaced with non-profits --

MR. GERBER: Uh-huh.

MS. MEYER: -- like, the board has taken that stance in the past. I don't know that the board will want to do that in this case. We could, but that's one thing that the board has taken.

DR. MUNOZ: Frequently?

MS. RAY: No, not --

MR. GERBER: Very frequently.

MS. MEYER: I wouldn't say frequently. But they have made that decision. You have done that --

MS. RAY: That's --

MS. MEYER: Actually, you've done that in the last year. And you've allow housing authorities to step in as nonprofits. That is an alternative --

MS. RAY: Yes.

MR. GERBER: Fair enough.

MS. MEYER: 9(b)?

MR. GERBER: 9(b).

MS. MEYER: Well, okay. 9(b) -- we're going to move on to Exchange. In November of 2009 the board put

the program for Exchange and you set deadlines for closing of March 31 for all of the closing for 2007, 2008 and 2009 Exchange deals.

In March we came back and you extended those deadlines to May for 2007 and 2008 deals and for 2009. You extended the 2007 and '08 deals for their 10 percent test and substantial closing deadlines to May 31 -- actually, to July 31. And then that was it -- for March you extended the closing date to May and the 10 percent test and substantial construction to July. And for 2009 10 percent test and substantial construction dates they were as they normally would be, for December 1.

There was some confusion when we set out. We asked for a 60-day extension. There was confusion in what we actually asked you for and what was in the written materials. So we're back today to clarify the difference between the written material and what we actually asked you for and put another extension in front of you.

What we actually put in front of you -- what we asked you for was a 60-day extension for March to May. And what we actually put in front of you was March to July for the placement in service extension.

And so what we're going to -- what we're asking you today is to confirm what the actual dates should be as

of right now. For 2007, 2008 and 2009 deals the closing dates should be May 31 for all of the deals, 2007, 2008, 2009. 10 percent test and substantial construction should be -- for 2007 and 2008 should be July 31. Substantial construction and 10 percent test for the 2009 dates should be December 31 of this year -- or actually, December 1.

MR. GERBER: First.

MS. MEYER: Should be December 1 of this year. Placement in service for 2007, 2008 should be July of 2011. And for the 2009 transactions it should be December 1 of 2011 -- I mean, December 31 of 2011. That's what it should be as we speak right now.

What staff is asking you for today is a 60-day extension of those dates and push everything forward.

MS. BINGHAM-ESCARENO: Of all four of them? Of all four of what you just said, the 10 percent test --

MS. MEYER: For 2007 --

MS. BINGHAM-ESCARENO: -- for '07 --

MS. MEYER: -- and 2008 --

MS. BINGHAM-ESCARENO: -- and '08?

MS. MEYER: -- transactions.

MS. BINGHAM-ESCARENO: Okay.

MS. MEYER: There is a misprint -- I'm verifying it right now -- in your board materials.

MS. BINGHAM-ESCARENO: I got you.

MS. MEYER: So your closing dates for all transactions should be July 31 for 2007, 2008, 2009. July 31.

MS. BINGHAM-ESCARENO: Gotha.

MS. MEYER: Where it says in your written materials for 10 percent test and substantial construction it says September 31 --

MS. BINGHAM-ESCARENO: Which there's no such date.

MS. MEYER: -- should say September 30 --

MR. CONINE: Gotha'.

MS. MEYER: -- for 2007 and 2008 deals only. Their placement in service for 2007, 2008 --

VOICE: July.

MS. MEYER: -- should be September 30 of 2011. Placement in service. For 2009 again, closing date July 31, 2010, 10 percent test, substantial construction, December, 2010 and then placement in service December 31 of 2011. That's what staff is asking you for.

Now, in order to hit that goal the applicants need to request that extension -- just a blanket extension. They will need to request that. And the WAP requires an extension, \$2,500 extension. Back in November

whenever we requested the extension of the dates the board waived that fee for those that could close by the date. Staff is not requesting that the board waive that fee. We are requesting that you hold the \$2,500 fee in place.

I'm going to stop there.

MR. CONINE: I have witness affirmation form as you might suspect.

Ms. Cynthia Bast?

MS. BAST: Thank you, Mr. Conine. Cynthia Bast of Locke Lord, Bissell and Ladle. In case you weren't already confused enough I'd like to add one more date to the mix. In the calendar for the Exchange transactions wherever it is printed it says that 50 percent construction must occur within eight months of the closing date.

However, in the sub-award agreement that has been promulgated it says that that date cannot be any later than November 30 of 2010. So if we're closing deals in July of 2010 and we weren't given eight months to complete 50 percent of their construction then we need to eliminate that date. And I just want to make sure that that's part of the record. We've had some concern expressed from some lenders about that particular date. And I want to make sure that that is covered, as well.

Thank you.

MR. CONINE: Thank you.

Pat Barbola?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes?

MR. GERBER: Would it be possible to ask maybe Tom to step forward for just a second. I think we might want to just touch -- just revise where the stance is coming from on this just a little may. That may maybe make things a little bit easier.

MR. GOURIS: Hopefully, it will simplify. We're just asking for a 60-day extension from what we had requested previously so that all the deadlines move back 60 days. And we're asking for the fee to be not reimbursable this time, but to be hard. And that would provide potentially some of the income to help offset some of the additional costs of closed-out costs that we're having dealing with closings.

MR. GOURIS: So those are the two things that we're really looking for. The dates are -- if we go through each of the dates real quickly, we'll twist it up when in reality is we're looking for a 60-day extension for each bill.

MR. IRVINE: And we do not object to direction

to conform the award agreements.

MR. GOURIS: Yes.

MR. GERBER: Sorry, Pat.

MR. BARBOLA: Mr. Chairman and members of the board, my name is Patrick Barbola from Fountainhead Companies in Fort Worth, Texas. Today I'm here to address you about the Tax Credit Exchange extension request. I am in favor of granting the extensions but I do have a problem with the fees. Obviously, there's some self-interest in this.

But in the past the penalties of this board that you all have imposed that's in the regulations always go to items that are actually caused by the developer. It's because I failed to do something. However, in this case we have a lot of transactions. If you look at the attachment to the board book there are many deals in Exchange that are lined up. They're quote in the pipeline or under review or waiting for review. The documents have been submitted.

Yes, my deals involve the USDA. We know where there's certain difficulties, as you heard back in March, of working with USDA. That has slowed the process down some. But according to what we think is going to happen in the next couple of days it's going to be done. And the

problems with USDA will be over.

But I want you all to think about -- this is obviously about -- it should not be about just collecting a fee. It should be about imposing blame. And not blame -- you should avoid blaming the developer and just grabbing his fee. Our fee goes into the general treasury.

It doesn't directly go to the Department. You can't use it unless the Legislature appropriates funds to offset, you know, your operating expenses.

But let's just take a look. A lot of these properties -- in the past when we get a Tax Credit Exchange award we generally have approximately five to six months to close. We know what our award's going to be. Many of these properties were not even completed underwriting until February or March. And I was told today there are still some that are going through underwriting. So not only have they had to pay --

Like, I had one property I had to pay my fee on when -- well, let's say my -- the underwriting was completed after the March board meeting. I had about ten days to take a look at it and submit a fee hoping that I could close by the end of this month. That's not really fair. People are doing the same thing today.

I mean -- I recommend that if the true purpose

of this is to flush out real deals, take a look at the suggested language I put in there. You grant across-the-board waiver. But you have the Department, people that have submitted their documentation, the Department can take a look at it, the staff.

And if someone is missing what I consider some of the core documents, due diligence documents or they have not provided the Department with the name of their outside lender, third-party lenders with weights terms then you send them a deficiency notice and you take what action needs to be done at that time.

If there's any question I'll answer. And for once I finished on time. Thank you very much.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Mike Shugrue?

DR. MUNOZ: Well, can I ask a question --

MR. CONINE: Sure.

DR. MUNOZ: -- of staff?

MR. CONINE: Oh, yes. I'm sorry.

DR. MUNOZ: Tom, any reaction of this proposed language?

MR. GOURIS: Well, I think the characterizations are really unfair. I think that that

staff has been working diligently to get the transactions accomplished. And a lot of the delays that occurred with reference to an underwriting deal that hasn't been finished underwriting is not because staff hasn't finished the underwriting, it's because the deal has changed. That's not a -- that's not within staff's control.

And that is part of the reason why we believe that a fee should be assessed. It's not a significant fee. It's going to build up. It's going to create an opportunity for folks to say, Yes, I'm really looking to get this deal done, or, I'm really not able to get this done because I still don't have my lender in place.

It's been a struggle. I will grant that it's been a tremendous struggle for us. And it's going to continue to be. We've got -- you know, we still have a long road to get through. After these get closed there's still a significant draw process that I'm sure Mike, who may talk about -- and there's a lot to be done.

The issue, though is if we have the information we need. We've been able to get deals closed -- a considerable number of deals closed because we haven't had a lot of changes to those transactions. As these get, you know, put through their paces to get to closing then we find significant changes have occurred, we -- you know, we

can't say, Oh, you were going to do this and now you're going to do that. We can't just say, Okay, do that and we'll close. We know we've got to go through the same process that we had done originally.

We did have some delays in getting the loan documents out to the public. But we had a lot of discord, a lot of discussion on that to get those documents to be as clean as possible. And we're still facing today folks who are wanting to change the loan documents. Frankly, some of them are on behalf of their lender and some of them are really issues that are -- that benefit, you know, their deal and their own position.

And we continue to work through those issues. But it makes it very difficult then to have a streamlined process without -- well, it just makes it difficult to have a streamlined process to get it done quickly if deals keep changing.

DR. MUNOZ: And that's the reason for some of these in review or in queue for review --

MR. GOURIS: That --

DR. MUNOZ: -- in pipeline?

MR. GOURIS: That's right. Because we're reviewing -- now they've submitted their last to move forward and we're recognizing, Oh, there's this issue or

that issue we need to review. There are a handful that we haven't because of the pipeline, the way it works. We haven't touched those again yet. And then there's a good number, there's about 17 that really haven't submitted to us anything new to move forward except for they asked for an extension last time. And they'll ask for an extension again and that's fine.

But there ought to be -- there needs -- we need to get serious about getting them to move forward or move off so we can use the funds some other way or recognize that we won't be able to use the funds some other way. And that's okay, you know, that's an option for us, as well. But, you know, we're trying to push these as hard as we can, push our staff. And it's a little bit like pushing on a rope to push, you know, these deals in. I know that the developer wants to get these deals done as much as we do. The issue is do they have the -- all the pieces in place to actual get it done.

And, you know, I know there are about 15 transactions that were struggling with USDA. And during the meeting we've been exchanging a little bit with USDA.

And I think we've come to a solution to get those moving forward and hopefully, in the next day or two we'll have a final subordination agreement to get those deals moving

off center. But that's the last big group of deals. Everything else is going to be, you know, individual negotiations based on whatever they are. And we -- again, we try to minimize that as much as possible. But that's what slowing us down.

MR. CONINE: Any other questions?

Mike?

MR. SHUGRUE: Good afternoon, Mr. Chair, board members, Mr. Gerber. I'm Mike Shugrue with Solutions Plus. It's kind of a good news/bad news issue, as I can see it. On my witness affirmation form I did check I'm for and against, which doesn't make me neutral. Because I am for the extension but I am against the fees.

And the reason I'm against the fees is aside from it costing the deal more money, we struggled to get every deal closed at the end of March. There are reasons to get it closed. Staff really worked hard and worked with me to get it done. And I'm real proud of that. We just got our first draw approved yesterday. And there are a lot of reasons why the draw took so long. And it's arduous. I don't expect that to be the same way next time.

However, as I stand here before you I don't know when my 10 percent test is due based on what I just

heard. I know if you didn't close you got till July but if you did close I don't know when. It's supposed to be the end of May. And the end of May would mean I'm going to buy materials and store it. So I'm going to pay something, enter into contracts and insure it, which once again, is a cost to the job the job doesn't need.

You know, we mobilized, we scraped it up -- dirt -- we've staked. We expect to start going -- well, we can't get started going vertically up but we expect to start doing slabs this coming month. So we're well underway. But still hard to meet that 10 percent test. We don't have a problem with the construction completion dates. We'll do that. So that's my story.

MR. CONINE: And you're sticking to it.

MR. SHUGRUE: I'm sticking to it.

MR. CONINE: Okay.

MR. SHUGRUE: Even though the hammock's in the attic.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

Sara Andre?

MS. ANDRE: You all are just already cracking

up. I haven't even said anything.

MR. GERBER: Tom, did you want to take this one -- right? -- the 10 percent? You want to touch on it real quick? Sorry.

MR. GOURIS: Yes. Sorry. There was some confusion in the sub-award agreement. We left some dates in for across the board to leave them set. But Tim had said earlier what we're planning on doing is doing a blanket amendment to those award agreements to address the 10 percent test. 2009 transactions always had until the end of this year. We inadvertently had a different date in there and I think that led to some confusion. And the earlier ones have already been given an extension. So they just haven't been updated in the sub-award award agreement.

MS. BINGHAM-ESCARENO: So a closed deal that he was supposed to have his 10 percent test in May, will it be extended 60 days by -- with the staff's recommendation today?

MR. GOURIS: The -- we -- the staff's recommendation was if you requested an extension you'd get that close date to be extended to September.

MR. CONINE: No. The -- he's already closed.

MS. BINGHAM-ESCARENO: He's closed.

MR. GOURIS: Right. And I think he said he closed before the March -- by the March deadline. So he never needed an extension to start with. And so --

Is that right?

MR. SHUGRUE: I did what I needed to do so I need to be penalized now.

VOICE: No, no.

MR. GOURIS: The March transactions closed and had two months to provide their 10 percent test. Similarly, anything that closes by the May 31 deadline would have two months to show their 10 percent test. If we extend this now for transactions to close by July 31 they'll -- those deals would have two months to meet their 10 percent test. So the two months has always been there.

What he's asking is, I didn't make the two months; I closed back then but I didn't make the two months, now I'd like to get the benefit of the extra four months that we're proposing, you know, the two months that I've just missed and then two more months but I don't want to pay the fee. That's fine.

MR. CONINE: Ms. Andre?

MS. ANDRE: Hi. I'm Sara Andre. I'm a consultant. And I am here also to support the resolution with the caveat that you waive the fee. And my reasoning

is much like Mr. Barbola's, only nicer.

You know, a fine is generally used as a penalty or a deterrent or to cover costs. And I think those are great reasons. But I have a number of deals in the pipeline that submitted their documentation starting back in February. And although there have been complications -- there are always complications on these deals -- the developers have worked diligently along with staff to try to get this closed.

And, you know, if you look at our timeline back when the timeline was initially extended to March 31, well, staff had 87 deals to do in 90 days. That's a deal a day with, you know, a few days off. Currently they're asking for a 60-day extension, which is great. They still have 64 days to close. That's a herculean task for anybody.

So I don't -- I'm not placing blame on staff. I'm also not placing blame on developers. It's just a very difficult task. And I think anybody that has paid the fee that went in with good faith that they were going to get closed by March 31 and just with the back and forth of the paperwork and the FTPs and the numerous times we've uploaded and changed documents, I just feel that asking them to pay again is unfair and not beneficial to the

Department. So I'd like to request that you waive that.

MR. CONINE: Okay.

Any questions?

(No response.)

MR. CONINE: Lou Williams?

MR. WILLIAMS: Chairman, board, my name's Louis Williams and I represent Abilene Senior Village. And I hate to muddy the water but I didn't know where I stand on this thing. We were not in the original Exchange. Well, we're -- 2009 application did not get into the original Exchange group. On March 19 we're invited to go to the show. So I was all happy about that and everything. And about three weeks ago we got our Exchange underwriting. And today we're awarded our HOME loan, you know, for that.

I guess what I'm really needing to know is where do I stand on these deadlines when today we were awarded our home which was the last segment of our financing. You know, where do I stand on deadlines and everything? And that's my question today for you guys is whenever you all are deciding on deadlines and stuff, where am I at on this thing.

And I think there's a couple -- I don't know if I'm the only one that was invited to participate after the fact. But we're ready to purchase our land. The bank

said, Well, let's make sure you're going to get your HOME loan before we jump in. And today's the first day that I'm available to purchase my land. So like I said, I hate to muddy the water but I didn't know where I stand on this thing. I don't want to step on a land mine here pretty quick.

MR. GOURIS: There was one transaction received -- that received an allocation later. It would make sense that they would be -- that any fee or the extension, whatever we provide for the rest of the folks be provided to them without any fee issue, I would think.

MR. GERBER: Oh, sure. We have a few friends.

MR. GOURIS: And that just makes sense. There may be one more that we are able to eke out of this ultimately. And whatever the deadlines are at the time that we're able to do that we would --

MR. CONINE: Well, we'll have board meetings between --

MR. GOURIS: -- expect --

MR. CONINE: -- now and then.

MR. GOURIS: Yes.

MR. CONINE: And you can come and bring them back.

MR. GOURIS: I don't know if it would be -- if

you have any more affirmations. But --

MR. CONINE: Yes, I do.

MR. GOURIS: Okay. Then I'll be quiet.

MR. CONINE: Are you -- I guess the answer to your question is it's going to -- whatever closing date we extend this to will be where you will fall.

MR. WILLIAMS: But even with that it's going to be tough since I'm just now starting to run with everything.

MR. CONINE: And I would suggest that you ask staff to come back and ask for a specific extension for your deal longer than what everybody else gets because you were the last one invited to the party. That's what I would suggest.

MR. WILLIAMS: Okay. I appreciate you guys.

MR. CONINE: You bet.

Terri Anderson?

MS. T. ANDERSON: Good afternoon, Chairman. Conine, Mr. Gerber and members of the board. I appreciate you taking the opportunity to hear all of us who have been walking hand-in-hand with all of the staff that have worked so diligently to try and bring all of the RF components to fruition. This certainly is a daunting task for anyone which we clearly mentioned. It's something new

and it's something that the staff isn't typically used to doing.

And where I sit as a consultant is listening to various lenders, whether they're conventional construction lenders or non-conventional lenders and/or syndicator with regard to certain time frames, et cetera that are being implemented by TDHCA. And with our closing time frame the amount of staff that's available to close the volume of deals that are up and ready to go -- it's just a difficult feat. And although we certainly would appreciate the extension of 60 days we'd also like to be able to close by our initial closing time frame.

So when we are subjected to extensions based on the construction lender's time frame, based on everyone else's time frames we're in a position where we desperately -- I guess staff desperately needs to be able to move more expeditiously.

And there have been a couple of things during training calls that were problematic, at least from a standard funding criteria. And a couple of those things are going through re-underwriting prior to closing after you've actually received your commitment from your construction lender and/or syndicator.

For example, on a TCAP transaction where we

have a commitment from TDHCA and that is what all of the lenders are going forward with when they're completing their underwriting assumptions. But there have been greater than 5 percent changes in the budget then the transactions are being re-underwritten at closing and/or when draw requests are coming in.

So the amount of time that we're having to take to actually close a development is definitely extended. And then in addition to that, I was concerned about the draw request time frame which was initially stated to be five to ten days. And that is -- it was quoted last month as being three to four weeks. And as more and more deals begin to close I'm just concerned and so are the lenders that the construction draws, as well as the funding draws are going to be delayed significantly.

And I guess I would request that staff actually use cost certification as an opportunity to come back and review developments after they are complete, as opposed to re-underwriting on a line item by line item basis with draw requests and/or prior to closing.

MR. CONINE: Are you -- let me ask you a question. Are you re-underwriting every time they submit a draw request?

MR. GOURIS: No, we're not.

MR. CONINE: I hope not.

MR. GOURIS: No. In fact, that just -- yes. No. What we're doing is we're looking at invoices and seeing that the invoices match up to what they request and the draw amount is. We're looking at G702's and seeing that the amount that they request in the G70s match up to what they're -- what they have requested. And we're looking at their draw budget, what they're drawing to compare to what they said they were going to draw to make sure we're not out of whack there. But there's no re-underwriting going on during the draw process.

MR. CONINE: Okay.

MR. GOURIS: We are, however -- there is a point she made. We are re-looking if they come back to us and closing and they said it was going to cost them \$10 million and now they're saying it's going to cost them 5 percent more than that or 5 percent less than that, we are going to re-look at that and say, That's enough of a difference so that a problem might matter, you know, an issue -- there might be an issue there.

Those re-underwritings are generally going pretty quickly unless there's other changes of more sizeable magnitude that have occurred, which have caused us to have to reiterate just like we would with every

other transaction.

A tax transaction that comes back and changes significantly and tells us about it before cost certification is cause amendment. And you see lots of those. And we see a lot more than you all see. And we underwrite a lot more than you all see that don't have to necessarily come back to you.

Unfortunately, you know, these deals are still moving and they're not as shovel ready as we all had hoped and thought that they might be and they're not -- you know, they're not locked down. And there's a lot of anxiety in the financial markets that -- you know, has led that. But we need those that are ready to move, to move and those that aren't, to, you know, allow us to, you know, re-scope what our -- what we need to do.

MR. CONINE: Okay.

MR. GOURIS: I do have some summary information.

MR. CONINE: Okay. Go ahead. That's all the witness affirmation forms I had.

MR. GOURIS: Just to be clear, we've had 24 Exchange deals close. Six more are ready to close. They've either been executed by us or they're about to be executed by us or they're -- all the docs have been agreed

upon. There may be some delay because the of lender, what have you. Four more are close to that process. We've exchanged documents and we're about there. So that puts us at 34 deals.

There's 35 that are in kind of a -- the pipeline of review. We're going through the docs they've submitted and looking to see that they're consistent and before we move it on to legal. And then there are 17 that have really not been making much progress at all. We have not seen them submit a whole lot of information to us, other than, like I said, the extension fee request.

TCAP, just so you know, comparison-wise, we have 13 that have closed, nine that are in the process. They're -- either we've sent the legal documents out or we've gotten them back and we're about to -- getting ready to close. Twenty-two in the review process making good progress and six that are -- we're concerned about because we haven't seen anything new from them and we think -- we're worried that they may not be able to afford close. And then there's the eight additional ones that we -- were approved earlier today.

MR. CONINE: I have, I guess, a little different concern, in that first off, I think this -- to me, is the last blanket extension I'm willing to grant.

Everyone has their own little story and their own little case. And we need to start taking these case-by-case after this next extension. Because I just -- I think there's too many isolated circumstances that create too many nuances, last one to the party and whatever the case may be.

MR. GOURIS: Sure.

MR. CONINE: I also have concerns about folks that haven't closed the TCAP or an Exchange deal that might have a 2010 Tax Credit application in. And for all the hard work and sweat and effort that this Department's gone through to get the Exchange and TCAP program where it is, to have those fall out for whatever reason and then have someone still get a 2010 application just goes against my grain a little bit.

So for that reason I'd like to take a look at these to extend these closing dates not till July 31 but till June 30 would be my recommendation. So we could take a look and see where we are on those who may also have a 2010 application in and try to find out what the story is there. Because I just -- you know, we just got to get these things done. And I recognize there's fault on both sides.

MR. GOURIS: Okay. If I might, there's a

provision in the WAP that allows for reduction in points for the current round if a prior round was returned. One could suggest that absent a extension these funds would need to be returned because they are in a close by the date. And they're closed. And that would potentially provide you all with an opportunity to say where we'd allow an extension but next time we have to allow an extension you're going to be -- that penalty might be something that would be --

MR. CONINE: Which is kind of why I'm suggesting a June 30 closing date and then taking them one by one after that.

MR. GOURIS: Okay.

MR. CONINE: I think that's a prudent thing for this board to take a look at and do.

MS. BINGHAM-ESCARENO: Mr. Chair --

MR. CONINE: Yes?

MS. BINGHAM-ESCARENO: -- then at that point -- just for discussion purposes here -- then maybe regarding the fee, if we go just the extension of the 30 days maybe figure out a way to have the fee waivable. And I guess I just foresee in our future a whole bunch of individual cases coming before us. And maybe at that point being a little bit more firm about the fee. Is that

possible or --

MR. CONINE: Yes, it's possible.

MR. GOURIS: I guess a question to be clear, what I understand from the board's perspective, we've already collected one fee for the --

MS. BINGHAM-ESCARENO: Right.

MR. GOURIS: -- extension exists. Would we be seeking a second fee for this extension or we allow that one fee to continue to be the fee that would have given them --

MR. CONINE: I think she was suggesting for the one fee to suffice and not have one --

MS. BINGHAM-ESCARENO: Just for this first extension -- I mean, for this 30-day --

MR. CONINE: Right.

MS. BINGHAM-ESCARENO: -- extension.

MR. GOURIS: And that like with the last version it remains -- if they close by that June 30 date they would still -- could still be refundable. Is that --

MS. BINGHAM-ESCARENO: I haven't made the motion.

MS. BINGHAM-ESCARENO: Okay. I'm sorry.

MS. BINGHAM-ESCARENO: It's for discussion. No. I want the board's feedback and your feedback on it.

Because I certainly see it's -- to me, it's a no-fault deal. Everybody's working hard, everybody's trying to get it done. However, I sense that staff could continue to get inundated with requests for extensions on deals that if there's no more skin in the game then, you know -- then those requests are just going to come in.

MR. CONINE: Well, I --

MS. BINGHAM-ESCARENO: And so, unfortunately, I see a possible need. And I liked Mr. Barbola's letter.

MR. CONINE: Yes.

MS. BINGHAM-ESCARENO: I just don't know -- I -- maybe I'm getting cynical too quickly. But I sense that the whole good faith definition would then come up for argument over and over and over again, too. So --

MR. IRVINE: Mr. Chairman, if I might?

MR. CONINE: Yes.

MR. IRVINE: Tim Irvine for the record. Haven't had a chance to look at Pat's letter. But, you know, there's also another possibility. And that is that the board, having heard about the variety of nuanced situations could give the Executive Director some authority and direction to waive fees for good cause. In other words, if somebody can come forward and show that this whole thing is being extended for nothing that I did

wrong, nothing I failed to do that I should have been doing, that's one thing. But if the additional time is needed because you're reworking or changing your deal or because pieces have been missing --

MR. CONINE: Yes.

MR. IRVINE: -- there should be some skin in the game.

MR. CONINE: Any other comments?

(No response.)

MR. CONINE: Guess I'd entertain a motion on Item 9(b).

MS. BINGHAM-ESCARENO: I'm not sure I'm prepared to --

MR. GOURIS: Thirty-day extension. And I'm not sure what you want to do with the hard or soft fee or good cause. A lot of that is --

MR. CONINE: I think the easiest thing to do would be 30 day -- waive the fee this time and then do it on a case by cases from then on. That would be kind of where I'm headed, where I'd --

MR. GOURIS: Reimbursable. Right?

MR. CONINE: Yes.

MR. GOURIS: The fee that already -- it still would continue to be reimbursed.

MR. CONINE: Do what now?

MR. GOURIS: Are you saying that the fee that already was provided would cover them for this one and it would still be reimbursable?

MR. CONINE: Yes. That's the way we set it up originally. Right?

MS. BINGHAM-ESCARENO: I'll make --

MR. CONINE: You want to do that?

MS. BINGHAM-ESCARENO: Yes.

MR. GOURIS: Thirty days from the existing deadline, which would be June 30. And everything would move 30 days like that. So end of the month, whatever that month, whatever that --

MR. CONINE: Are you saying the 10 percent test, everything backs up?

MR. GOURIS: Everything moves up -- moves --

MR. CONINE: Moves back.

MR. GOURIS: -- to the end of the month of whatever the 30 -- you know, whatever the --

MR. CONINE: Right.

MR. GOURIS: -- 30 days is.

MS. BINGHAM-ESCARENO: Okay. So Mr. Chair, I'll make a motion --

MR. CONINE: Okay.

MS. BINGHAM-ESCARENO: -- that relative to Item 9(b) of the Exchange Program that the board grant a 30-day extension, which would basically move the existing dates to the end of whatever month they're in right now, that we continue with the plan to reimburse the \$2,500 fee paid for deals that do close.

Did I forget anything?

MR. GOURIS: I'm sorry. Yes. There are placed in service dates and 10 percent tests for the 2009 transactions. They would stay the same. They weren't proposed to be -- we didn't propose them to be moved and they're not proposing to be moved.

MS. BINGHAM-ESCARENO: Okay. So -- and so I would reiterate the staff's recommendation that there are 2009 deals where the 10 percent and the placed in service dates --

MR. GOURIS: And the commencement of construction --

MS. BINGHAM-ESCARENO: And the commencement of --

MR. GOURIS: -- would stay --

MS. BINGHAM-ESCARENO: -- of construction would stay the same.

MR. GOURIS: Correct.

MS. BINGHAM-ESCARENO: That they would not be extended the 30 days.

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

MR. GANN: Mr. Gann seconds. Any further 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: Motion carries.

9(c).

MR. GERBER: Mr. Chairman, the last item is asking you all to cover for me. Section 2306 of the Government Code requires the Department to notify elected state officials of the receipt of applications for the Housing Tax Credit Program to allows those officials to weigh in their support or opposition for a particular development.

The -- by rule the state officials are required to submit their letters of support or opposition by April 1. On March 15 the Department mailed notifications to all required elected officials. However, after those

notifications had been made several errors were found in the mailings and identified in the cross-referencing of the districts.

So the incorrect district was assigned to the applications and therefore, the incorrect legislator and address was entered into the Department's data base. The notifications were then printed with those errors. We've identified them. Officials were notified immediately. And I believe that it was in the best interest of the program, as well as the applicants to have an additional month to respond. So I'd ask for your ratification of my decision to move the date from April 1 and to extend that to May 1.

DR. MUNOZ: So moved.

MR. CONINE: Motion by Dr. Munoz.

MS. RAY: Second.

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

MR. KEIG: Did we hear back from all the legislators one way or the other?

MR. GERBER: We have within that time frame and with the group. I think we're in good shape.

MR. KEIG: No further question.

MR. GERBER: Yes.

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: Motion carries.

Takes us to Item 10.

MR. GERBER: Brook, do you have a quick update on ARRA funds?

MS. BOSTON: Sure.

MR. GERBER: Okay.

MS. BOSTON: All right. And this is in your book behind Tab 10(a). And as I mentioned earlier, for our Weatherization Program -- and we actually have updated numbers as of this morning that are reflecting of -- with those units through Friday. And we're actually at 4,996. We're four units shy of the 5,000 mark. So -- but that's excellence.

And we still -- not all of our service advance are fully up to capacity in terms of the numbers they're producing. And I'm actually seeing that kind of in a good way and only as an example that we really expect that our production is going to continue to ramp up. We still don't see ourselves as at the production plateau that we

are going to be at within another month or two.

So I think once we do get there then we'll have a very steady excess of 500 a week, if not more. So we're feeling very good about achieving all of the federal benchmarks, as well as targets we've set for ourselves.

And on that one we've spent about 20 million, which is 6.3 percent. I would note that this is a program where we have to see invoices for the units. And so it -- there's a little bit of a lag time before significant money moves.

Hopelessness prevention and rapid rehousing, we are just under 25 percent of expenditure. This is a three-year program. So we're actually moving probably faster through the money and we'll probably be done actually before the end of the contract period.

Community Services Block Grant -- we've spent 50 percent. This is one where we have to have it also by December. And so 50 percent could seem a little disconcerting. It's actually a program, though. And based on a lot of activities -- we've talked to all the subrecipients one-on-one. And based on the activities that they have programmed there will be a big spike through June and July in particular because they do a lot of summer school programs, summer children activity

programs with camps and that kind of thing. So we've been accounting for that.

And I think TCAP and Exchange we've kind of covered a little bit on these last few items. So you have a pretty good sense of where we are for that. But in your report we actually talk about expenditures and households that will be served.

So total across the five sources of ARRA we have gone 6.5 percent. We know we still have quite a ways to go to really start ramping up and seeing those numbers change.

And the only other thing I wanted to mention is, Dr. Munoz, you had asked for examples of some outreach examples that were not real high-tech. And so -- and these are great examples. Actually, the Austin one I've got in my own mailbox at home. So I was very excited. And actually, some of the signs and that kind of thing. So we won't belabor the -- but I'm happy to talk in more detail about any of ARRA programs.

MR. CONINE: Any questions of Brooke?

(No response.)

MR. CONINE: Thank you very much.

DR. MUNOZ: Brooke, I'll say something.

MS. BOSTON: Okay.

DR. MUNOZ: About the low tech -- the importance of the low tech.

MS. BOSTON: Uh-huh.

DR. MUNOZ: My barber, Donnie Beta, is having his house weatherized in Lubbock because of low tech communication.

MS. BOSTON: Good.

DR. MUNOZ: He didn't -- he doesn't know I serve on this board.

MS. BOSTON: Sure.

DR. MUNOZ: He doesn't know what I do for a living. But he started to brag about the program through the city that helps, Weatherize my home. And he went on and on. And, you know, then I discovered it was part of this Weatherization money.

MS. BOSTON: Good.

DR. MUNOZ: And that's how he heard about it. It wasn't on the web.

MS. BOSTON: Yes. Another thing -- and there have been not just these kind of mailing-type things. But there's also just like public meetings and like, I know Austin --

DR. MUNOZ: I brought up the fact I was on the board at the end of the haircut.

MS. BOSTON: Yes.

DR. MUNOZ: Didn't know how -- I didn't know how it was going to go.

(Laughter)

MR. CONINE: And you don't do this for a living.

DR. MUNOZ: That's right.

MR. GERBER: There are a couple of report items.

MR. CONINE: Okay.

MR. GERBER: I know you continue to be interested in Waco's Parkside Village and while we'll skip the oral update today, I just commend that to you, those of you who have had an interest in that particular project that's been the subject of some media attention and certainly, Patricia's available to talk off line with you. And if necessary, we'll do an update at the -- a more full update at the June meeting.

There's also a list of TDHCA outreach activities that's also listed in the board book. I would mention that this week on Monday we had the privilege of being down in Brownsville. And Ms. Bingham joined us for a -- along with Senator Lucio to announce the final batch of homes that constituted us crossing the 1,000 Bootstrap

home. That was -- Homero Cabello was here because it's really a wonderful occasion and a lot of it happened because of Homero and the OCI team's leadership. And we, of course, because of the doubling of the Housing Trust Fund by the Legislature this last legislative session have been able to double -- more than double the Bootstrap Program. So we're going to see that program continue to really make a difference for those very lowest income families who are building their homes. It was, I think, very inspiring to --

MS. BINGHAM-ESCARENO: Very inspiring.

MR. GERBER: -- to see that. And before we share some of the media coverage with you.

Would you like say that?

MS. BINGHAM-ESCARENO: You know, it was my second Bootstrap event. And there were ten families that were there. And so proud to have built their homes, you know, with their own hands. And to celebrate that with our state senator and our county commissioner and our city mayor. It was just really nice event.

MR. CONINE: Great.

MR. GERBER: And as many of you know, we had intended for this meeting to actually be tomorrow. This is generally our practice. But we have the Senate

Intergovernmental Relations Committee that's meeting tomorrow in Dallas. And Chairman and the Vice-Chair will represent the Department, along with myself. And this will be one of our day oversight hearings with that committee which has responsibility for most of the housing issues in the Legislature. IRT, which is chaired by Senator Lucio, handles the other part of that work but the hearings are coming fast and furious. Couple weeks ago we had a hearing before Senate Finance. That with the Disaster Recovery Programs. We'll have additional hearings, I'm certain, about ARRA through Chairman Dunnam's Economic Stimulus Committee. But I appreciate those of you who have been available to come and talk about those programs directly to members and offer your perspective.

And we certainly had also intended -- I know some of you, as you well know -- our hope had been to take the board this month to go and actually do the board meeting in Brownsville. But because of scheduling it just didn't work out.

But I'd like to put a marker down on the board that hopefully, in September we can look again to going back down to the -- going to the valley. It's been a while since we've been down there. And so take a look at

your calendars. I know there's a lot of interest in seeing our Colonial Initiatives programs directly. And I think September or at another point soon thereafter as works out with your schedules we'd like to try to do that. So I'll just lay that marker.

Beyond that, thank you. Thank you for your time today and we'll look forward to seeing you in late June.

MR. CONINE: We stand adjourned.

(Whereupon, this board meeting was adjourned.)

CERTIFICATE

IN RE: TDHCA Board Meeting

LOCATION: Austin, Texas

DATE: May 12, 2010

I do hereby certify that the foregoing pages, numbers 1 through 206, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Housing and Community Affairs.

5/19/2010
(Transcriber) (Date)

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